

IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

UNITED STATES OF AMERICA, )  
 )  
Plaintiff, )  
 )  
vs. ) No. 08 CR 846  
 )  
JON BURGE, ) Chicago, Illinois  
 ) June 15, 2010  
Defendant. ) 9:00 A.M.

VOLUME 10A  
TRANSCRIPT OF PROCEEDINGS - Trial  
BEFORE THE HONORABLE JOAN HUMPHREY LEFKOW, and a jury

APPEARANCES:

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Chicago, Illinois 60604  
BY: MR. M. DAVID WEISMAN  
MS. APRIL PERRY

DEPARTMENT OF JUSTICE  
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1 APPEARANCES: (Continued)

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1 (Proceedings had in open court outside of the presence and  
2 hearing of the jury:)

3 THE CLERK: 08 CR 846, USA versus Jon Burge.

4 MR. WEISMAN: Good morning, your Honor. David  
5 Weisman, April Perry, and Betsy Biffel for the United States.

6 MR. MARTIN: Good morning, Judge. Marc Martin, Rick  
7 Beuke, and Bill Gamboney for Mr. Burge, who is present.

8 THE COURT: All right. As I recall, our agenda this  
9 morning is just this one motion concerning Fred Hill. Are  
10 there other things that you need to raise?

11 MR. BEUKE: Well, Judge, I think the other -- the  
12 other detectives and State's Attorney.

13 THE COURT: Oh, right.

14 Well, I had the hearing yesterday regarding this  
15 former assistant State's Attorney Nealis and conclude that his  
16 position is virtually identical to, you know, others who have  
17 been involved in this, including, in particular, Mr. Hyman. So  
18 I have allowed the motion on the same basis.

19 MR. WEISMAN: All right.

20 MR. BEUKE: I suppose, Judge, we would ask you to  
21 consider the admission of his prior testimony similar to we  
22 have asked you regarding McKenna and Hyman, and I know there  
23 was one other.

24 MR. MARTIN: Hill.

25 MR. BEUKE: We'd ask you to consider that in the same

1 vein as those other people who you have given Fifth Amendment  
2 protection to because now they are unavailable for us to call.  
3 We had them all under subpoena, your Honor.

4 THE COURT: Right, right. And I --

5 MR. WEISMAN: Judge --

6 THE COURT: Go ahead.

7 MR. WEISMAN: As I say, I don't know if Nealis has  
8 prior testimony.

9 MR. MARTIN: Yes, he testified before the police  
10 board.

11 MR. WEISMAN: Oh, okay.

12 THE COURT: Okay. Well, I -- you know, I haven't seen  
13 the testimony, but if it is in the same category as the others,  
14 then, you know, I would use the same reasoning to not admit  
15 it. But if there is some basis to distinguish it, then --

16 MR. MARTIN: It will -- obviously we're learning this  
17 this morning, but we'll get together this testimony -- I don't  
18 think it was that long -- and present it to the Court.

19 THE COURT: Okay. And then the motion to admit prior  
20 testimony of Fred Hill.

21 Without going into all the details, I'll put a brief  
22 written ruling on the docket. But the essential factor here is  
23 the demonstration of the trustworthiness, and, you know, I know  
24 you're not confident that I am treating these on an even-handed  
25 basis, Mr. Martin, but it seems to me that this is, you know,

1 really in the same category as the others.

2 The trustworthiness element is not satisfied in regard  
3 to Mr. Hill's prior testimony because, as I previously ruled in  
4 regard to O'Hara and Yucaitis, officers who worked under  
5 Burge's command at Area 2 had a strong motive to deny that they  
6 or Mr. Burge had tortured or abused Wilson or that they knew of  
7 such conduct by other officers.

8 Mr. Hill was one of the main detectives assigned to  
9 Wilson's case and conducted the line-up of Wilson, which took  
10 place at Area 1 after Area 2 officers had obtained a  
11 confession. Furthermore, although Mr. Hill was not named as a  
12 defendant in Wilson's second civil rights trial and claimed  
13 that he did not arrive at Area 2 until after the confession had  
14 been obtained, the transcript of his testimony from that case  
15 reveals that Wilson alleged that Hill was present and assisted  
16 Burge in electrocuting him in order to obtain a confession.  
17 Thus Hill was similarly motivated to deny Wilson's allegations  
18 in order to secure Wilson's successful criminal prosecution and  
19 to prevent Wilson's conviction from being overturned, as well  
20 as to avoid his own and his fellow officers's possible criminal  
21 prosecution or the payment of civil damages.

22 So the motion is denied.

23 MR. WEISMAN: Thank you, your Honor.

24 MR. MARTIN: Your Honor, just for scheduling  
25 purposes. We spoke yesterday about Carolyn Hill who I had

1 indicated we had scheduled to come in today. And I had a  
2 contact with the person that would be bringing her to court  
3 last night. And it is because of medical appointments, it is  
4 better for her to come next Monday, so I informed the  
5 government of that.

6 THE COURT: All right.

7 Okay. Are we ready?

8 (Discussion off the record.)

9 MR. MARTIN: One other issue, your Honor.

10 THE COURT: Okay.

11 MR. MARTIN: I noticed that this case was the entire  
12 front page of the Sun-Times this morning, and we'd ask that the  
13 jurors be questioned.

14 MR. WEISMAN: Judge, can I ask one other procedural  
15 matter? Is it this Court's practice to give instructions prior  
16 to our closing argument?

17 THE COURT: I usually do it after. I can do it either  
18 way.

19 MR. WEISMAN: It is -- we're flexible. I just -- I  
20 thought I had seen this Court give instructions prior to  
21 arguments in the past.

22 THE COURT: I don't think I have.

23 MR. WEISMAN: Okay. All right. So your plan is to do  
24 it after arguments?

25 THE COURT: Yes.

1 MR. WEISMAN: Okay.

2 THE COURT: All right. Bring them in.

3 (Proceedings had in open court in the presence and hearing  
4 of the jury:)

5 THE COURT: Before you sit down, would you stand to be  
6 sworn.

7 Before you start, let's have a sidebar here quickly.

8 (Sidebar proceedings had in open court outside of the  
9 hearing of the jury:)

10 THE COURT: My timing is a little off. I didn't do  
11 the inquiry of the jury. So can we do -- should I do it now?

12 MR. MARTIN: As long as we can do it today, your  
13 Honor, that's fine.

14 THE COURT: All right. Fine.

15 (Proceedings had in open court in the presence and hearing  
16 of the jury:)

17 THE COURT: You made proceed, Ms. Biffl.

18 MS. BIFFL: Thank you.

19 (Witness sworn.)

20 SHADEED MU'MIN, GOVERNMENT'S WITNESS, DULY SWORN

21 DIRECT EXAMINATION

22 BY MS. BIFFL:

23 Q. Good morning, sir. Would you state your name and spell it,  
24 please?

25 A. Yes, I would. My name is Shadeed Mu'min. S-h-a-d-e-e-d,

1 M-u apostrophe m-i-n.

2 Q. How old are you, sir?

3 A. 66.

4 Q. And in what state do you currently live?

5 A. Ohio.

6 Q. Are you current employed?

7 A. No.

8 Q. Do you do any kind of volunteer work?

9 A. Yes.

10 Q. Where is that?

11 A. At the Old Food Pantry.

12 Q. At a food pantry?

13 A. Yes.

14 Q. And how many days a week do you do that?

15 A. Four.

16 Q. For how long have you been doing that?

17 A. Approximately two years.

18 Q. I want to talk a little bit about your background. Were  
19 you ever in the military?

20 A. Yes.

21 Q. When was that?

22 A. In '62.

23 Q. Okay. And did you have some involvement first when you  
24 were in high school?

25 A. Yes.



1 Q. What that was?

2 A. Reserve. I was in the Reserve.

3 Q. Okay. And then after high school, did you go into the  
4 Navy?

5 A. I went on active duty in the Navy.

6 Q. Where were you stationed?

7 A. In Great Lakes, Illinois.

8 Q. And anywhere else?

9 A. Philadelphia.

10 Q. Okay. And were you ever in Virginia?

11 A. Yes.

12 Q. Okay. Now at what point did you get out of the Navy?

13 A. '65, if I am not mistaken.

14 Q. Were you honorably discharged?

15 A. Yes.

16 Q. What did you do after the military?

17 A. I have got a job, and I got married.

18 Q. Do you remember where you were working?

19 A. I think it was National Cannery.

20 Q. Now at some point did you change your name?

21 A. Yes.

22 Q. What was your name when you were younger?

23 A. George H. Ramsey.

24 Q. And why did you change it?

25 MR. BEUKE: I'm going to object. If we could put a

1 foundation as to when this would have gone.

2 MS. BIFFL: It just goes to the use of more than one  
3 name, Judge.

4 BY MS. BIFFL:

5 Q. When did you change your name?

6 A. In '85 or '82, I think, one of them years.

7 Q. And for what reason did you change your name?

8 A. I changed it for religion purpose, so I would -- it would  
9 seem if I have some knowledge of my culture, that's what seemed  
10 fair.

11 MR. BEUKE: I'm sorry, Judge, I didn't hear that.

12 BY MS. BIFFL:

13 Q. Could you repeat that, please?

14 A. It shows I have some knowledge of my culture, why I changed  
15 my name, that I belong to the Islamic faith.

16 Q. Now have you been to prison before?

17 A. Yes, I have.

18 Q. Okay. In February 1972 were you convicted of armed  
19 robbery?

20 A. Yes.

21 Q. Were you sentenced to 10 to 25 years on that?

22 A. Yes.

23 Q. In February of 1977 were you convicted of robbery?

24 A. Yes.

25 Q. Were you sentenced to 10 to 25 years on that?

1 A. Yes.

2 Q. In November of 1987 were you convicted of attempted murder  
3 and attempted armed robbery?

4 A. Yes.

5 Q. And were you sentenced to 15 years?

6 A. Yes.

7 Q. In April of 1988 were you convicted of armed robbery?

8 A. Yes.

9 Q. And were you sentenced to eight years?

10 A. Yes.

11 Q. And in November of 2000 were you convicted of second degree  
12 recklessly endangering safety and possession -- excuse me --  
13 felon in possession of a firearm?

14 A. Yes.

15 Q. And were you sentenced to a total of five years prison  
16 followed by five years probation on those two counts?

17 A. Yes.

18 Q. And are you still currently on probation for that?

19 A. Yes, I am.

20 Q. When do you finish your probation?

21 A. July 3rd.

22 Q. So just a few weeks, right?

23 A. Yes.

24 Q. Okay. Now one of the convictions I just mentioned was from  
25 November of 1987, and I want to direct your attention to the

1 arrest for that.

2 Now do you remember when you were arrested for that?

3 A. Not exactly.

4 Q. Okay. Was it -- let me ask this. The offense for which  
5 you were convicted, did that occur in July of 1985?

6 A. Yes.

7 Q. Okay. Did you get arrested the night that it happened?

8 A. Yes, I did.

9 Q. In July of '85 --

10 A. Yes.

11 Q. -- the night of the robbery?

12 A. Yes. To the best of my knowledge, yes.

13 Q. Okay. Well, do you remember in October of 1985 getting  
14 arrested -- getting pulled over --

15 MR. BEUKE: Objection, Judge. It is asked and  
16 answered. He said he got arrested that night.

17 MS. BIFFL: And now I'm asking about three months  
18 later.

19 THE COURT: I see. All right then. Overruled.

20 BY MS. BIFFL:

21 Q. In October of 1985 did you get pulled over?

22 A. Yes.

23 Q. And did you get arrested that night?

24 A. Yes.

25 Q. And what were you questioned about that night?

1 A. A robbery that had taken place.

2 Q. All right. And when had that robbery taken place?

3 A. In '85.

4 Q. Okay. Do you remember when in '85?

5 A. Yeah, it had been July.

6 Q. So were you arrested twice for that offense in July or did  
7 you not get arrested until October?

8 MR. BEUKE: Objection, Judge, leading, suggestive.

9 MS. BIFFL: It wasn't leading, Judge. I'm asking one  
10 or the other.

11 THE COURT: Well, try again.

12 MS. BIFFL: Okay.

13 BY MS. BIFFL:

14 Q. All right. When you were arrested in October, you said you  
15 were questioned about a July robbery, correct?

16 A. Yes.

17 Q. Had you already been arrested on that charge?

18 A. No.

19 Q. Do you know -- were there some other people who were  
20 involved in that July robbery?

21 A. Yes.

22 Q. How many?

23 A. Three.

24 Q. Do you know whether any of them had been arrested in  
25 July --

1 A. I'm not sure on that.

2 Q. Was there -- what gender were those other three people?

3 A. Could you repeat that?

4 Q. Sure. Were they boys or girls, the other people involved?

5 A. One of them was a young lady, and the rest of them was men,  
6 young men.

7 Q. Okay. Was the young lady arrested -- do you know when she  
8 was -- if she was arrested on this?

9 A. To the best of my knowledge she was arrested that night  
10 that it happened.

11 Q. Okay. What about the two young men?

12 A. No.

13 Q. Okay. So in October when you were arrested were you taken  
14 to a police station?

15 A. Yes.

16 Q. In what city was this?

17 A. Chicago.

18 Q. Do you remember which district it was or on what street the  
19 police station was?

20 A. I'm not sure.

21 Q. Okay. Did you at some point that night end up at Area 2?

22 A. Yes.

23 Q. Was that the first police station you went to?

24 A. No.

25 Q. Okay. So you went to -- what happened at the first station

1 you went to?

2 A. I guess normal routine. They booked me in there.

3 Q. All right. And then how did you get to Area 2?

4 A. I was informed after I was there a while that I would be  
5 picked up --

6 Q. Okay.

7 A. -- and --

8 Q. And so did someone pick you up there and take you?

9 A. Yes, I was picked up in a paddy wagon.

10 Q. When you got to Area 2, where were you taken?

11 A. Upstairs to the detective division.

12 Q. And were you put -- where were you put? Were you in a room  
13 or out in the big larger area?

14 A. I was put in a room.

15 Q. Was anybody else in the room with you?

16 A. No.

17 Q. Who is it that took you up to this room on the second  
18 floor?

19 A. It was two officers --

20 Q. Were they the ones --

21 A. -- uniformed that brought me from there and took me up  
22 there.

23 Q. Okay. When they put you in that room, did they leave you  
24 handcuffed or unhandcuffed?

25 A. They took the cuffs off.

1 Q. And then they left you, is that right?

2 A. Yes.

3 Q. Okay. So you were in that room unhandcuffed you said, is  
4 that right?

5 A. That's correct.

6 Q. Did they leave the door open or closed?

7 A. To the best of my knowledge the door was closed.

8 Q. At some point did an officer come in and talk to you?

9 A. Yes.

10 Q. And do you know who that was?

11 A. At the time it was Lieutenant Burge.

12 Q. Now had you ever met him before?

13 A. No.

14 Q. How did you know his name?

15 A. He introduced himself to me.

16 Q. Do you remember what he said?

17 A. To the best of my knowledge he asked me did I have anything  
18 that I want to tell him.

19 Q. What did you say to that?

20 A. I told him no.

21 Q. What did he say to that?

22 A. I was lying.

23 Q. And how did you respond?

24 A. I told him I still don't know what you are talking about.

25 Q. And for how long did that exchange go on?



1 A. A few minutes.

2 Q. And then did Lieutenant Burge do anything?

3 A. He became a little angry and pushed me into the wall. Told  
4 me to turn around, and he put the cuffs on.

5 Q. Now when you say he put the cuffs on you, did he put the  
6 cuff on just one hand or on both?

7 A. No, he put them on both my hands.

8 Q. Okay. And were you cuffed in front of you or behind you?

9 A. At the time I was cuffed in front of me.

10 Q. And did he say anything when he put the cuffs on?

11 A. He told me I would talk before I left there, tell him what  
12 he wanted to know to the best of my knowledge.

13 Q. And then did he remain in the room or did he leave?

14 A. No, he left out for a minute or for a while after he placed  
15 the cuff firmly on me.

16 Q. When you say firmly on me, can you describe what you mean?

17 A. Tight when he was practically cutting my circulation off.

18 Q. For how long was he gone?

19 A. Possibly 20 minutes or half an hour.

20 Q. And then did Lieutenant Burge return to the room?

21 A. Yes, he did.

22 Q. And tell us what happened when he returned?

23 A. He asked me again was I willing to tell him what he wanted  
24 to know.

25 Q. What did you say?

1 A. I said I don't know what he is talking about.

2 Q. Then what happened?

3 A. He become annoyed and tightened the cuffs up even more so.

4 Q. And were you still handcuffed, both hands in front of you?

5 A. Yes.

6 Q. Did you say anything to him about the cuffs being tight?

7 A. Not to my knowledge.

8 Q. And how long did he remain in the room that time?

9 A. Not long.

10 Q. Did he leave again?

11 A. Yeah.

12 Q. And can you approximate how long he was gone that time?

13 A. It may have been a half hour, 20 minutes, to the best of my  
14 knowledge.

15 Q. While he was gone, were you -- how did the cuffs feel on  
16 you?

17 A. They was tightening up, and my wrists was swelling up.

18 Q. Okay. Did Lieutenant Burge return to the room again?

19 A. Yes, he did.

20 Q. What happened when he did?

21 A. He asked me was I ready to talk.

22 Q. What did you say?

23 A. I told him I still -- I still repeated myself that I didn't  
24 know what he was talking about.

25 Q. All right. And then what happened?

1 A. He took them off in front of me, and then he cuffed me one  
2 hand, take me -- hooked me to the wall. I was sitting on a  
3 bench where there was a bar, and he took the cuffs off both  
4 hands and put them on one and handcuffed me to the wall.

5 Q. Okay. Did he say anything when he did that?

6 A. To the best of my knowledge he repeated again I would tell  
7 him what he wanted to know before I left there.

8 Q. Did he leave the room again?

9 A. Yes, he did.

10 Q. For how long was he gone that time?

11 A. I'm not sure.

12 Q. Okay. Did he return at some point?

13 A. Yes, he did.

14 Q. Was anyone with him?

15 A. Not to my knowledge.

16 Q. Okay. What happened then?

17 A. He took me out of there, out of the room that I was being  
18 confined in.

19 Q. And where did he take you?

20 A. He took me to out into -- into his office.

21 Q. When you say he took you out through the detective  
22 division, can you describe for us what it was -- what area you  
23 walked through to get to his office?

24 A. It was an open area, something like the courtroom, but it  
25 had desks sitting around and a lot of officers sitting around.

1 Q. I'm going to show you what's marked for identification as  
2 Government's 8E.

3 I'd ask you to look at that photograph and ask if the  
4 area outside that door resembles the area that you walked  
5 through.

6 A. Yes.

7 MS. BIFFL: Your Honor, at this time I would request  
8 to use 8E as a demonstrative.

9 THE COURT: Any objection?

10 MR. BEUKE: No objection, Judge.

11 THE COURT: All right.

12 MS. BIFFL: I'll publish.

13 BY MS. BIFFL:

14 Q. Okay. So, Mr. Mu'min, you said the area outside this room  
15 door resembles the one you walked through.

16 A. Yes.

17 Q. Do you recall how many desks there were in the area that  
18 you walked through?

19 A. No, I do not.

20 Q. Were they set up to be used -- were there people working at  
21 those desks?

22 A. To the best of my knowledge there wasn't, no.

23 MR. BEUKE: I'm sorry, Judge, I didn't hear that  
24 answer.

25 BY MS. BIFFL:

1 Q. Would you repeat what you said.

2 A. To the best of my knowledge there wasn't.

3 THE COURT: Was or wasn't?

4 THE WITNESS: Wasn't.

5 THE COURT: Was not, okay.

6 BY MS. BIFFL:

7 Q. Were the desks, did they have anything on the top of them  
8 or were they just empty desks?

9 A. They had, you know, typewriters sitting on top of them  
10 where people worked.

11 Q. All right. Okay.

12 How far or how long did it take you to walk from the  
13 interview room where you had been to Lieutenant Burge's office?

14 A. Not long, maybe about ten seconds or fifteen seconds,  
15 something like that.

16 Q. Okay. What happened when you got into his office?

17 A. I was set -- set down. I was told to sit down.

18 Q. Go ahead.

19 A. I was sat in front of his desk.

20 Q. So you sat in front of his desk.

21 A. His desk.

22 Q. There was a desk in the room?

23 A. Yes, it was.

24 Q. All right. Was there a chair behind the desk?

25 A. Yes, it was.

1 Q. And did you sit -- the chair you sat in, where was it in  
2 relation to the desk?

3 A. In the front of the desk which he sat in.

4 Q. And when you were sitting -- let's say that where you're  
5 sitting now is where you were sitting in his office, where was  
6 the door to the office?

7 A. To the best of my knowledge it was to my right.

8 Q. Was it immediately to your right or a little bit behind or  
9 a little bit in front?

10 A. Slightly like, say, he -- I'm sitting -- it would be over  
11 this area.

12 Q. Okay. So a little in front of you or a little behind you?

13 A. A little bit behind me.

14 Q. Okay. When you sat down in the chair, were you still  
15 handcuffed?

16 A. Yes.

17 Q. Were the cuffs in front of you or behind you at that point?

18 A. They were in front of me.

19 Q. And what happened in that room?

20 A. I was asked where was my son at at that time when I was  
21 sitting there.

22 Q. Where my son was?

23 A. Where my son was at.

24 Q. And what did you say?

25 A. Told him I didn't know.

1 Q. And then what happened?

2 A. He told me I was lying.

3 Q. Okay. And then did he do anything?

4 A. He told me to call my wife.

5 Q. And did you do that?

6 A. I did that.

7 Q. From his office?

8 A. Yes.

9 Q. Okay. And tell us about that. Why did you call -- did he  
10 tell you why you should call your wife?

11 A. If I -- see if she knew where my son was at, did she see  
12 him.

13 Q. And so did you do that?

14 A. Yes.

15 Q. And how long did the phone call last?

16 A. Not long. Probably 10 or 15 seconds, something like that,  
17 maybe.

18 Q. And was Lieutenant Burge standing there the whole time?

19 A. Yes, he was.

20 Q. What happened when the phone call ended?

21 A. He had a small tape recorder, something -- that's what it  
22 was, and he played it back to me what I said, I said on the  
23 phone.

24 It is a device that he plugged in so he could listen  
25 to and record the phone call.

1 Q. So he recorded the phone call?

2 A. Yes.

3 Q. And then he played it back?

4 A. Yes.

5 Q. When he played it back, did it have both your end of the  
6 conversation and your wife's end?

7 A. Yes, it did.

8 Q. Okay. What did he say after he played it back?

9 A. He told me I was lying. She probably lying.

10 Q. He said your wife as lying?

11 A. Probably lying.

12 Q. Then what happened?

13 A. He told me I would still tell him what he wanted to know  
14 before I left out of there.

15 Q. Did --

16 A. And he was sitting behind the desk. And he opened the  
17 drawer. And in that drawer he pulled out, to the best of my  
18 knowledge, a .44 Magnum.

19 Q. And what did he do with that .44 Magnum?

20 A. He laid it on the desk at first. Told me I blow your  
21 brains out if you don't tell me what I want to know.

22 Q. When he laid it on you, was a barrel pointing toward you or  
23 pointing in a different direction?

24 A. Not at first. He took -- he picked it up after it laid  
25 there for a while and took all the bullets out except one.



1 Q. And then what did he do?

2 A. He placed it to my head and spin it and snapped it three  
3 times.

4 Q. Okay. Now let's break this down a little bit.

5 You were still sitting in the chair in front of the  
6 desk.

7 A. Yes.

8 Q. Is that right?

9 A. Yes.

10 Q. Was he still behind the desk?

11 A. Yes.

12 Q. Do you recall what this gun looked like as far as its size?

13 A. It was a big long barrel, something about like that.

14 Q. Okay. And you have gestured with your hands --

15 A. Yes.

16 Q. -- about eight inches?

17 A. About inches, I am not -- I don't know how long. It was a  
18 big one.

19 Q. So you said that he took all the bullets out and put one  
20 in. Is that right?

21 A. Except one.

22 Q. He took all but one out.

23 A. All but one out.

24 Q. Okay. And then I believe you said he spun the cylinder.

25 A. Yes.

1 Q. Okay. And then what did he do?

2 A. Placed it to my head.

3 Q. Did he do that from behind the desk or did he come around?

4 A. He did that from behind the desk.

5 Q. And when you said he put it to your head, was it touching  
6 you?

7 A. Yes, it was.

8 Q. Okay. And could you show us by pointing to your head where  
9 he touched it to?

10 MS. BIFFL: All right. For the record he is gesturing  
11 to the middle of his forehead.

12 BY MS. BIFFL:

13 Q. And what did he do when he put the gun to your forehead?

14 A. He spun the cylinder and clicked it.

15 He clicked it.

16 Q. How many times did he do that?

17 A. Three.

18 Q. Did he spin it each time --

19 A. Yes.

20 Q. -- in between?

21 I'm sorry. You --

22 A. Yes. Yes.

23 Q. You just have to wait for me to finish my question because  
24 the court reporter can't take us both down at once. Okay?

25 All right. So he spun it in between and clicked it

1 three times.

2 A. Yes.

3 Q. What were you doing at this point?

4 A. Looking.

5 Q. Looking at what?

6 A. Looking at him.

7 Q. Did you say anything?

8 A. No.

9 Q. Now up until this point in his office, was there anyone  
10 else in the office?

11 A. To the best of my knowledge there was an associate standing  
12 in the doorway. He wasn't directly in the office but he was  
13 standing in the doorway.

14 Q. Okay. And did you say an associate?

15 A. Yes.

16 Q. Okay. I just wasn't sure of the word you used.

17 Was it another police officer or was it a civilian?

18 A. It was another police officer.

19 Q. Do you know when he had arrived at the doorway?

20 A. Like shortly after he had taken me to his office.

21 Q. After Lieutenant Burge had had the gun to your head and  
22 pulled it -- the trigger three times, what did he do?

23 Did he say anything to you?

24 A. I think he said, to the best of my knowledge, he said to me  
25 that I would talk. I want to play hard. So he told me you

1 want to play hard. And he became angry at that point and  
2 rushed out behind the desk with a typewriter cover, typewriter  
3 cover, and attempted to force it down into my face.

4 Q. And when you say he became angry, can you describe for us  
5 what about him makes you say that?

6 A. His face real red and like he -- his whole contour change.

7 Q. What was his tone of voice?

8 A. Aggressive, real aggressive. Like I could tear your head  
9 off, like someone.

10 Q. Now you say that he grabbed a typewriter cover. Can you  
11 describe to us what it looked like?

12 A. It was a vinyl cover that goes over a typewriter.

13 Q. Do you remember what color?

14 A. To the best of my knowledge it was grayish.

15 Q. And was it something that you could see through or no?

16 A. No.

17 Q. Now you said that he tried to force it over your face. Can  
18 you describe for us -- and if you need to use your hands to  
19 demonstrate -- can you describe what you mean by that?

20 What did he do?

21 A. He took it and came out and pushed it down over my face and  
22 was trying to push it over the back of my head. But he was  
23 holding his hand in front of it so I could hardly breathe.

24 And he kind of held it that I did get short of  
25 breathing.

1 Q. You did get short of breathing?

2 A. Yes, I did.

3 Q. Okay. And for the record you have used your hand to show  
4 it being pressed first over the top part of your face and then  
5 over your mouth and nose, is that right?

6 A. That's correct.

7 Q. Now while he was doing that, did you -- did you feel hands  
8 on you?

9 A. After the second attempt to do that -- well, I stood up  
10 mostly, did it the second time, I stood up with the chair and I  
11 was handcuffed to the chair.

12 Q. Okay. Let me stop you. Had your handcuffs been changed at  
13 some point?

14 A. Yes.

15 Q. When did that happen?

16 A. After I wouldn't -- after the gun didn't do no good.

17 After he had pointed a gun.

18 Q. All right. And who changed your cuffs?

19 A. He did.

20 Q. What did he do? That -- you were handcuffed in the front,  
21 right?

22 A. Right. He took them off and put them behind me.  
23 Handcuffed behind.

24 Q. All right. And now you said a second ago handcuffed to the  
25 chair. So can you describe, were you handcuffed directly

1 behind your back or around the back the chair or --

2 A. Around the back of the chair.

3 Q. What kind of chair was it?

4 A. The kind of chair like I'm sitting in now

5 Q. Did it move?

6 A. Yeah, swivel back.

7 Q. Swivel back?

8 So now you have described that when he put this  
9 typewriter cover in your face, did you struggle at all?

10 A. Yes, I struggled the second time he attempted to do it  
11 again, but I got up. And there was an associate that was  
12 standing in the door. He asked him to come forward to hold me  
13 down.

14 Q. Okay. Do you remember what he said to that person?

15 A. He said it is fun time.

16 Q. All right. And did he say anything about holding you down?

17 A. He said hold him down so I can get him -- get it over the  
18 face, that's what he told the associate that was standing  
19 there.

20 Q. Did you see whether that person from the doorway came in?

21 A. I felt him come in because he had his hand on my shoulder.

22 Q. Okay.

23 A. On my shoulder pushing me down so I couldn't get up from  
24 the chair.

25 Q. All right. And for the record you have just demonstrated

1 with both of your hands pushing on your shoulders, is that  
2 right?

3 A. Yes.

4 Q. While you felt those hands on your shoulders, what was  
5 Lieutenant Burge doing?

6 A. Pushing the typewriter down and smothering me, and I went  
7 to hollering.

8 Q. Why were you hollering?

9 A. At that point I had become afraid that I was going to die.

10 Q. You mentioned a minute ago that you had become short of  
11 breath. At some point were you able to breathe when he had  
12 this typewriter cover --

13 A. When I passed out, he blew, right in my face, so I would  
14 come back to.

15 Q. So you passed out?

16 A. Yes.

17 Q. And then when you say he blew air in your face, are you  
18 referring to Lieutenant Burge or --

19 A. Yes, Lieutenant --

20 Q. -- or to the associate?

21 A. -- Burge.

22 Q. And can you tell us what you mean by blowing in your face?

23 A. Get close to somebody. It is like almost -- like mouth to  
24 mouth except that you blowing into my nostrils so I went --

25 Q. Okay. Was he actually -- were his lips touching you or was

1 he just blowing --

2 A. He just -- his lips wasn't touching me, but I could feel  
3 the air.

4 Q. Okay. How many times did the defendant, Lieutenant Burge,  
5 put the typewriter cover over your face?

6 A. Three.

7 Q. How many times did you lose consciousness?

8 A. Two.

9 Q. The third time he put the cover over your face, was he  
10 doing what you have already described as far as holding it  
11 against you?

12 A. Yes.

13 Q. And were you having trouble breathing?

14 A. Yes. That's when I went to hollering.

15 Q. Okay. And then did you tell him anything?

16 A. I told him I had -- I -- just don't do it no more, I would  
17 tell him what he want to know.

18 Q. When you told him that, what did he do?

19 A. He kind of released it.

20 Q. Did he then question you about the robbery at that point?

21 A. Yes, he did.

22 Q. Did he take a statement from you?

23 A. Not to my knowledge he didn't.

24 Q. Okay. Did he tell you anything about a statement?

25 A. He informed me that I would sign a statement. And if I



1 said anything to anybody what had happened, they wouldn't  
2 believe me.

3 Q. And did he tell you who would be taking a statement or when  
4 that would happen?

5 A. I don't recall.

6 Q. Okay. Did you remain in his office or did he take you out?

7 A. I remained in there a few minutes.

8 Q. And then where did you go?

9 A. Then he took me back to the room that he was holding me in.

10 Q. Did you see him again that night?

11 A. No.

12 Q. How long did you remain in that interview room until  
13 someone else came to see you?

14 A. Overnight.

15 Q. And the next day do you recall who came to see you?

16 A. An officer by the name of Paladino.

17 Q. And when Officer Paladino came to see you, what happened?

18 A. To the best of my knowledge he informed me that a district  
19 attorney, DA, would be coming in for me, with a statement for  
20 me to sign.

21 Q. And did another person come in to see you with Paladino?

22 A. Later on.

23 Q. Okay. Do you know that person's name?

24 A. It was state attorney. I think this is -- DA. It was a  
25 DA.

1 Q. Do you remember how many times that attorney came in to the  
2 room?

3 A. To the best of my knowledge once.

4 Q. All right. Is it possible he came in more than once?

5 A. It is possible.

6 Q. One of the times that he came in, did they have a statement  
7 for you to sign?

8 A. Yes.

9 Q. And did the attorney read that statement to you?

10 A. He attempted to, and I stopped him. I told him it wasn't  
11 necessary for all that, I would sign it.

12 Q. And did you sign it?

13 A. Yes, I did.

14 Q. Did you tell Paladino or that attorney what had happened to  
15 you in Lieutenant Burge's office?

16 A. No, I did not.

17 Q. Why not?

18 A. I was afraid to.

19 Q. Did you see Lieutenant Burge any more after you signed the  
20 statement?

21 A. It could have been the next day to the best my knowledge.

22 Q. All right. And where did you see him?

23 A. He came by and told me, good boy.

24 Q. Did he say anything else other than good boy?

25 A. I don't recall.

1 Q. All right. Just a couple last questions. Was this -- you  
2 mentioned that this arrest was in Chicago. Was this the first  
3 time you had been arrested in Chicago?

4 A. Yes.

5 Q. Where were you living at the time?

6 A. I was living in Milwaukee.

7 Q. Had you ever met Lieutenant Burge before?

8 A. No.

9 Q. Had you ever heard of him?

10 A. No.

11 Q. One other question about your background. Had you ever  
12 been affiliated with any gang?

13 A. No.

14 Q. All right. And, finally, did you ever file any sort of  
15 civil lawsuit in connection with this incident that we have  
16 just talked about?

17 A. No.

18 MS. BIFFL: Thank you. I don't have anything further,  
19 your Honor.

20 CROSS EXAMINATION

21 BY MR. BEUKE:

22 Q. Mr. Mu'min, you have testified and been interviewed about  
23 this incident a number of times, haven't you?

24 A. Yes.

25 Q. Okay. You have been -- you have given statements to the

1 FBI, haven't you?

2 A. To the best my knowledge I have.

3 Q. You have given video statements to people from the People's  
4 Law Office, haven't you?

5 A. Yes.

6 Q. You have given statements in front of the representative  
7 from the Chicago Police Department, Office of Professional  
8 Standards, haven't you?

9 A. Yes.

10 Q. And you also had a number of conversations with the  
11 prosecutors in this case, haven't you?

12 A. Repeat that, sir?

13 Q. You have had a number of conversations with the prosecutors  
14 in this case, haven't you?

15 Ms. Biffl and her partners.

16 A. Yes.

17 Q. You have been interviewed by them on a number of occasions,  
18 correct, prior to testifying here?

19 A. Yes.

20 Q. You have gone over your testimony with Ms. Biffl numerous  
21 times, haven't you?

22 A. Yes.

23 Q. How many?

24 A. I'm not sure, sir.

25 Q. More than five?

1 A. I'm not sure.

2 Q. Travel from Ohio to come here and speak with her?

3 A. Yes.

4 Q. More than five times?

5 A. I'm not sure, sir.

6 Q. Well, prior to testifying here today, when was the last  
7 time you spoke with Ms. Biffel and her partners?

8 A. Repeat that.

9 Q. Prior to testifying here today, when did you last speak  
10 with Ms. Biffel and her partners?

11 A. Today.

12 Q. Pardon?

13 A. Today.

14 Q. How about yesterday?

15 A. Yes.

16 Q. How about over the weekend?

17 A. Yes.

18 Q. How about last week?

19 A. Yes.

20 Q. How about two weeks ago?

21 A. That's possible.

22 Q. You have gone through your statement with her more than  
23 five times, haven't you?

24 A. I didn't keep track, sir.

25 Q. Well, every time you traveled from Ohio, you came here at

1 their expense, correct?

2 They paid you for your travel expenses, right?

3 A. This is my first time here.

4 Q. Well, all of the other conversations that you had with the  
5 prosecutors concerning preparation for your testimony here  
6 today, was that all done on the phone?

7 A. No.

8 Q. You were here before today, weren't you?

9 A. No.

10 Q. Well, when you talked to Ms. Biff1 yesterday, where were  
11 you and where was she?

12 A. Sir, maybe I misunderstood the question, but I talked to  
13 them -- when I say first time here, I mean my coming to  
14 Chicago, that's what I mean by that statement.

15 Q. Okay. I'm just -- you prepared your testimony with  
16 Ms. Biff1 a number of times over the last month in preparation  
17 for your appearance here today, is that fair to say?

18 A. That could be correct, sir.

19 Q. Okay. And the conversations that you have had with  
20 Ms. Biff1, were they in Chicago or did you speak with her over  
21 on the phone?

22 A. I had a few conversations here with her.

23 Q. She gave you -- in Chicago, correct?

24 A. Yes.

25 Q. Yeah. So you have been to Chicago before and spoke with

1 the prosecutors about your testimony.

2 MS. BIFFL: Objection, Judge. Asked and answered. It  
3 is getting confusing.

4 MR. BEUKE: I'll say.

5 THE COURT: Are you ready to move on or do you want a  
6 ruling on it?

7 MR. BEUKE: Well, I'll move on.

8 THE COURT: Okay.

9 BY MR. BEUKE:

10 Q. Here, did Ms. Biffel give you transcripts of your prior  
11 testimony, Mr. Mu'min, and ask you to read them to see what you  
12 have testified to in the past? Yes or no.

13 A. She allowed me to look them over.

14 Q. Okay. There were several transcripts that you got,  
15 correct?

16 A. That's correct.

17 Q. Okay. Just so it is clear for the ladies and gentlemen,  
18 that robbery, attempt murder that you were convicted of in  
19 1987, that was a robbery that -- an attempt murder that  
20 occurred in July of 1985, correct?

21 A. To the best of my knowledge, yes.

22 Q. And you did that robbery, attempt murder, didn't you? You  
23 were involved in that case, correct?

24 A. Yes.

25 Q. Okay. You drove a car in that case, correct?

1 A. Yes.

2 Q. You drove your son and a person by the name of Rio Harper  
3 to a Brown's Chicken on 116th and --

4 MS. BIFFL: Objection to going into --

5 BY MR. BEUKE:

6 Q. -- and Western, didn't you?

7 MS. BIFFL: -- the facts of the case.

8 THE COURT: All right. Sustained.

9 BY MR. BEUKE:

10 Q. Well, the statement that you ultimately gave in that case,  
11 you read a handwritten statement, didn't you?

12 A. No, I did not read it.

13 Q. Well, let me show you what I will ask to be marked as --

14 (Brief interruption.)

15 BY MR. BEUKE:

16 Q. Mr. Mu'min, I'm going to show you what I am going to mark  
17 as Defendant's Number 51 and ask you to take a look at this  
18 two-page document.

19 Tell the ladies and gentlemen of the jury if you  
20 recognize that and if you do, what you recognize that to be.

21 A. I recognize this. It is a statement.

22 Q. What is it?

23 A. It is a statement taken.

24 Q. A statement. Does it -- at the top does it say statement  
25 of Shadeed Mu'min?



1 A. That's correct.

2 Q. Does it have a date and a time?

3 A. Yes.

4 Q. October 31st, 1985, 12:50 P.M., correct?

5 A. Correct.

6 Q. Underneath -- your signature appears in the middle of page  
7 1, doesn't it?

8 A. That's correct.

9 Q. And that's underneath what's commonly referred to as the  
10 Miranda warnings, correct?

11 A. Yes.

12 Q. Your signature appears at the bottom of the page also,  
13 correct?

14 A. That's correct.

15 Q. And on page 2 -- could you turn to page 2?

16 Your signature appears on page 2, correct?

17 A. Correct.

18 Q. And do you recall Detective Paladino signing that document?

19 A. Yes.

20 Q. Do you recall assistant State's Attorney Wilbur Crooks  
21 being involved in this investigation?

22 A. Correct.

23 Q. You remember him, don't you?

24 A. Yes.

25 Q. Okay. Well, we'll get back to that.

1           Those signatures on that document, you put them  
2 there, correct?

3 A. That's correct.

4           MS. BIFFL: Objection to the form of the question as  
5 far as whose signature was put there.

6           MR. BEUKE: Oh, I'm sorry, Judge. Let me clear that  
7 up.

8 BY MR. BEUKE:

9 Q. Where it says -- where the signature Shadeed Mu'min appears  
10 underneath the Miranda warnings, you signed there, correct?

11 A. That's correct.

12 Q. At the bottom of page 1 where Shadeed Mu'min's signature  
13 is, you signed there also, didn't you?

14 A. Yes.

15 Q. On the back of page 2, at the end of the statement, Shadeed  
16 Mu'min's signature appears there, and that's where you signed,  
17 correct?

18 A. That's correct.

19 Q. And after you signed assistant State's Attorney Wilbur  
20 Crooks signed, didn't he?

21 A. Correct.

22 Q. And Detective Paladino signed, didn't he?

23 A. Correct.

24 Q. And that document that you signed, that was read to you by  
25 assistant State's Attorney Crooks that afternoon at 12:50,

1 wasn't it?

2 A. Correct.

3 Q. And he read you each and every line in that document,

4 didn't he?

5 A. Correct.

6 Q. Okay. And he asked you if everything in that document was

7 true and correct and he asked you if you would sign it,

8 correct?

9 A. Correct.

10 Q. And you did it. Correct?

11 A. Yes.

12 Q. Okay. Just to back up a little bit. Ms. Biffl asked you

13 about do you recall that -- excuse me -- that -- being arrested

14 in July of 1985. You indicated that that's when you were

15 arrested originally, correct?

16 A. Yes, I did.

17 Q. And in July of 1985 when you were arrested, it was for this

18 robbery, correct?

19 A. Yes.

20 Q. You were arrested after Rio Harper and your son drove away

21 from the Brown's Chicken --

22 MS. BIFFL: Objection -- I'll withdraw.

23 BY THE WITNESS:

24 A. No.

25 BY MR. BEUKE:

1 Q. Where were you arrested in July of '85 when you were  
2 arrested for this robbery?

3 A. I'm not sure.

4 Q. Was it in Chicago?

5 A. To the best of my knowledge in Chicago.

6 Q. Were you brought to a place after you were arrested in July  
7 for this armed robbery?

8 A. Excuse me. That's incorrect. When I was arrested I was  
9 not arrested directly for this case, I was --

10 Q. Well --

11 A. -- arrested for carrying a concealed weapon --

12 Q. Oh.

13 A. -- when I was stopped.

14 Q. Okay. The arrest in July of '85 is what I am talking  
15 about, Mr. Mu'min, that you told Ms. Perry -- or Ms. Biffel.

16 Where were you arrested in July of '85?

17 A. That was incorrect where I was arrested.

18 Q. Oh, you got that wrong?

19 A. Yes, I did.

20 Q. Oh, okay. In spite of preparing your testimony with  
21 Ms. Biffel on five or six occasions, you got that wrong, right?

22 A. Yes.

23 Q. Okay. Just so we're clear, Mr. Mu'min, in -- you were  
24 arrested on October 30th of 1985, correct?

25 A. That's correct now, sir.

1 Q. You told Ms. Biffel that you recall after the robbery a  
2 young girl that you drove over to the Brown's Chicken at 116th  
3 and Western, she had been arrested that day, that was your  
4 testimony, correct?

5 A. That's correct.

6 Q. You knew that, correct?

7 A. I had heard it.

8 Q. Well, you drove her there, correct?

9 A. That's correct.

10 Q. And you drove your son and Rio Harper there, correct?

11 A. That's correct.

12 Q. And you knew they were going to commit a robbery, correct?

13 A. To the best of my knowledge, yes.

14 Q. They had a gun, correct?

15 MS. BIFFEL: Objection to going into the facts, your

16 Honor.

17 MR. BEUKE: Well, this is important, Judge, because --

18 MS. BIFFEL: Not relevant.

19 THE COURT: What's the relevance?

20 MR. BEUKE: Pardon?

21 THE COURT: What point of proof does it go to?

22 MR. WEISMAN: Judge, could we have a sidebar, please?

23 THE COURT: Yes.

24 (Sidebar proceedings had in open court outside of the  
25 hearing of the jury:)

1 THE COURT: This is the first robbery, right, I mean  
2 -- or the one that -- I mean, the one for which he was  
3 convicted and --

4 MR. BEUKE: Yes.

5 THE COURT: -- now overturned.

6 MR. BEUKE: Yes, your Honor.

7 THE COURT: Okay.

8 MR. BEUKE: He was -- none of his convictions were  
9 ever overturned, they are all convictions.

10 MS. BIFFL: No, that's not true. Two counts of this  
11 one were.

12 THE COURT: Well --

13 MS. BIFFL: Yes.

14 THE COURT: -- not the one at issue in this case.

15 MR. BEUKE: Right.

16 Judge, with respect to his several statements, he has  
17 said in prior testimony that he did not commit this robbery.  
18 You know, so I think it is directly relevant and impeaching  
19 based on what Ms. Biffel has elicited on direct that the -- he  
20 is now admitting, and it is contrary to statements he has made  
21 on other occasions. That's why the facts that he told to  
22 assistant State's Attorney Crooks and Paladino I think are  
23 important.

24 MS. BIFFL: Judge, if he was denying it, they would  
25 say that the facts had to come in. Now he is admitting it, and

1 they are saying the facts have to come in.

2 MR. BEUKE: Well, either way it is impeaching, Judge.

3 MS. BIFFL: It is not relevant.

4 They can ask him --

5 THE COURT: He has admitted the robbery, right? And  
6 so you --

7 MR. BEUKE: Well, but he is denying the robbery --

8 THE COURT: On previous occasions?

9 MR. BEUKE: -- on previous occasions.

10 THE COURT: So you can confront him with that without  
11 getting into details about what the robbery was all about. He  
12 has already admitted the robbery.

13 MR. BEUKE: Well, but --

14 THE COURT: He --

15 MR. BEUKE: -- Judge, one of the -- I think what's  
16 also at issue is we're going to have evidence concerning the  
17 interrogation, and the questions that are posed to him are  
18 going to come in by other witnesses that he was aware of the  
19 fact, and the interrogators were aware of the fact that this  
20 Carol Tyree had been arrested the day of the robbery, just like  
21 he said that, she had given a statement. Her statement was  
22 that he was the driver, his son was the passenger. His son was  
23 the shooter.

24 THE COURT: Right.

25 MR. BEUKE: All of that information. He's saying he

1 was tortured to give this statement. Our theory is he was  
2 confronted with all of the evidence that the police officers  
3 had at the time, and then he chose to give a statement and  
4 cooperate. And the allegations of torture are nonsense.

5 MS. BIFFL: Okay. That can all be established without  
6 going into the facts. He has already acknowledged, yes, the  
7 girl was arrested the night of, and so they can go into so you  
8 don't know what she had told them or you knew she had given the  
9 statement whatever. They can confront him with the fact that  
10 he denied it in the past.

11 But to say that they are going to bring in somebody to  
12 say, yes, he gave the statement when he has just said, yes, I  
13 gave the statement and I was guilty --

14 THE COURT: Right, yeah.

15 MR. BEUKE: But, Judge, it goes to his state of mind.

16 THE COURT: I made the ruling over and over again not  
17 to get in the underlying facts of these crimes because they are  
18 prejudicial and they are not really relevant.

19 So you can interrogate him with regard to his  
20 credibility and impeach him on the prior statements, but you  
21 don't -- I won't let you lead him through every incident that  
22 led up to this robbery.

23 MR. BEUKE: Well, Judge, can I be allowed to speak  
24 with him about -- I mean, he has testified about conversations  
25 he had with Lieutenant Burge in the office. I believe, you



1 know, it is contrary to -- we'll have evidence that he was  
2 questioned about information that the officers knew at the  
3 time. I mean, one is the young lady had been arrested. The  
4 other one is that his car had been identified. You know, the  
5 detective -- the officer who arrested him in the 7th District  
6 is going to testify to that, that this -- he was actually  
7 sitting in his car because it had been identified as being  
8 involved in the armed robbery, attempt murder.

9 So I mean those --

10 THE COURT: But now we're talking about the arrest  
11 with the alleged torture.

12 MR. BEUKE: Right.

13 THE COURT: Okay.

14 MR. BEUKE: Right. That's in October of '85.

15 MS. BIFFL: And, your Honor, these arresting officers  
16 he is talking about, they took them off the witness list over  
17 the weekend. So if they are now putting them back on -- I  
18 don't know what they are doing.

19 MR. BEUKE: Well --

20 MS. BIFFL: They told us they weren't coming and --

21 MR. BEUKE: Well, I don't know if we took -- we took  
22 who off the witness list?

23 MS. BIFFL: Meyer and Bunch.

24 MR. BEUKE: No. Well, I didn't. You know, I  
25 apologize, but I didn't know what he was going to testify to.

1 I don't know why they --

2 MS. BIFFL: That's for another day.

3 MR. WEISMAN: Judge, the other problem is we read a  
4 stipulation in yesterday in which the defendant admits that  
5 he -- after he gave him food for thought he was ready to  
6 cooperate.

7 So for them to bring in people now to say, that's not  
8 why he was going to cooperate, I'm not sure how that works when  
9 the defendant's own admission is contrary to that.

10 MR. BEUKE: Well, the stipulation was that Mr. Burge  
11 had testified on a previous occasion that he had a conversation  
12 with him, and his conversation was that he gave him food for  
13 thought. He told him about the fact that the young lady had  
14 been identified, that she had identified him. All of that is  
15 in evidence. So I don't know why I shouldn't be able to go --

16 THE COURT: Okay. So you want to bring --

17 MR. BEUKE: That's --

18 THE COURT: -- out certain statements were given, that  
19 they had certain statements.

20 MR. BEUKE: Yeah, they put that in.

21 THE COURT: Prior to.

22 MR. BEUKE: Yeah. I mean, they've elicited that  
23 through the stipulation. It is already in evidence.

24 MR. WEISMAN: No, no, no. The stipulation does not  
25 say that. In fact, the stipulation was that a motion to

1 suppress where Lieutenant Burge then was trying to keep -- the  
2 issue was keeping the statement out, and Lieutenant Burge was  
3 very specific that he was not trying to elicit a statement.  
4 And what he said was, I gave him food for thought. And after I  
5 was then giving him food for thought he was ready to --

6 THE COURT: There is a dispute as to what the food for  
7 thought was?

8 MR. BEUKE: Yeah. Right.

9 THE COURT: Well --

10 MR. WEISMAN: He said we're ready to cooperate.

11 MR. BEUKE: No.

12 MR. WEISMAN: The issue then --

13 THE COURT: Wait, wait.

14 MR. BEUKE: That wasn't the motion because I thought  
15 the stipulation contained specific things that the detective  
16 or --

17 THE COURT: No, I don't think --

18 MR. BEUKE: -- Lieutenant Burge had told him during  
19 the course of that --

20 THE COURT: Maybe we should take a little recess --

21 MR. BEUKE: All right.

22 THE COURT: -- and get this straightened out.

23 (Proceedings had in open court in the presence and hearing  
24 of the jury:)

25 THE COURT: All right. We'll take a 15-minute recess.

1 (Proceedings had in open court outside of the presence and  
2 hearing of the jury:)

3 THE COURT: Mr. Mu'min, would you step down and leave  
4 the courtroom, please?

5 (Witness temporarily excused.)

6 THE COURT: So as I understand this issue, the defense  
7 wants to inquire of the witness about what Mr. Burge told --  
8 said to Mu'min concerning the underlying facts of the crime.  
9 Is that right? That according to his theory led Mu'min to  
10 confess.

11 MR. WEISMAN: With that we have no --

12 MR. BEUKE: Yes, Judge.

13 MR. WEISMAN: Judge, we have no -- I mean, the  
14 stipulation says that Burge did tell him facts that the police  
15 knew at the time. That wasn't the line of questioning.

16 They are offering two things here. One, they are  
17 saying, we want to get into the underlying details of the  
18 statement itself, which is just a backdoor way of getting into  
19 the underlying facts of the conviction.

20 MR. BEUKE: That's not true, Judge.

21 MR. WEISMAN: And second --

22 THE COURT: Wait, wait, wait.

23 MR. WEISMAN: Then he says that it is relevant because  
24 we're going to bring in a State's Attorney and a detective --  
25 apparently a State's Attorney only to say this is how the

1     interrogation went, we gave him this information.

2             But it is clear from the stipulation that after  
3     Mr. Burge had this food for thought conversation, he was then  
4     ready to cooperate.

5             So for them to bring in a State's Attorney to say, no,  
6     he wasn't ready to cooperate, then we had to give him the  
7     information to make him cooperative, is impeaching their  
8     own -- the defendant's own words.

9             MR. BEUKE: Judge, here's the part of the stipulation  
10    that I am referring to. Page 2.

11            "Question: What did you tell him at that time of the  
12    evening?

13            "Answer: I had a conversation of maybe five minutes  
14    duration at the outside. I told him the reason why he was  
15    there. Told him the evidence that we had against him. Told  
16    him that certain statements had been made by the co-defendant  
17    in the case implicating him being one of the offenders, various  
18    idle chatter."

19            So I mean he was told about the fact that a  
20    co-defendant had been arrested and the fact that a co-defendant  
21    had in fact implicated him as being a participant from the  
22    armed robbery attempt murder. That's --

23            MS. BIFFL: And if that's what the question was  
24    limited to, that would be fine. But that's not what's going to  
25    happen.

1 MR. WEISMAN: Correct.

2 MS. BIFFL: So if Mr. Beuke --

3 THE COURT: Wait. Let Mr. Beuke finish, and then you  
4 can respond.

5 MS. BIFFL: I'm sorry, I thought he was.

6 MR. BEUKE: Well, I mean, that is the issue, Judge.  
7 What he is --

8 THE COURT: So you want to say -- you want to  
9 have -- you want to confront him with actual statements that  
10 Burge made to him.

11 MR. BEUKE: I mean, they have brought it all in. They  
12 have gone into four different conversations that he had with  
13 Burge.

14 THE COURT: Okay.

15 MR. BEUKE: They have put in in their case the fact  
16 that Burge has made a statement indicating that he had a  
17 conversation with him. And part of the conversation included  
18 confronting him with the facts that Lieutenant Burge knew at  
19 the time of the conversation.

20 It is important for us, Judge, because, again, our  
21 theory is that his statement was given based on he knew and had  
22 knowledge of the fact that others that he was involved in -- in  
23 the crime had implicated him.

24 THE COURT: All right. And then the next stage would  
25 be if he denies that these were said to him, can you prove it

1 up? Which I guess you cannot do, is that right?

2 MR. BEUKE: No, I think we can, Judge. But I think  
3 he's already admitted it. Ms. Biffel brought out on direct that  
4 he knew about her. He was told about the fact that I think the  
5 young lady was in custody. He was told about the fact -- I  
6 don't know, you know, relative to the car, relative, you know,  
7 additional information. But, you know, they have gone into the  
8 conversation with Burge. They have opened up the door. I  
9 think I have got to be allowed to cross examine on that point  
10 as to what, you know, Burge told him. They brought all this  
11 out.

12 MS. BIFFEL: Judge, we brought out --

13 THE COURT: That is not impeaching I guess.

14 MS. PERRY: We have no objection to them bringing that  
15 out. That is not what the questions were that led to the  
16 objection. So if he is going to stay away from the underlying  
17 details of the offense, we have no problem here.

18 MR. BEUKE: Well, that --

19 MS. PERRY: It is only if he continues to go and, by  
20 the way, as Mr. Beuke knows, Brown's Chicken in this, you know,  
21 city is just a pretty incendiary phrase. So the more he throws  
22 around Brown's Chicken, Brown's Chicken, it is making it seem  
23 like it is something it's not.

24 He is talking about what happened at the Brown's  
25 Chicken, who was driving, all of that type of thing. Those are

1 the underlying details of the offense. That's the only thing  
2 we have a problem with at this moment at least.

3 MS. BIFFL: And, Judge, when we -- I elicited from him  
4 that he knew that one of the co-defendants had been arrested,  
5 that wasn't through Burge. He said -- I said were any of your  
6 co-defendants arrested that night? Were they male or female?  
7 And he said the young lady was.

8 That information didn't come from Burge, he knew it.  
9 And he just said on cross, I had heard she had been arrested.

10 MR. BEUKE: Well, but --

11 MS. BIFFL: If he wants --

12 THE COURT: Well, he can inquire about where he heard.

13 MS. BIFFL: And that's fine. But he went into, and  
14 she told you that you drove them there and that they had a gun  
15 and that they were going to do this and that. None of that  
16 should be coming in.

17 In the stipulation Mr. Beuke read to you the part, and  
18 those general phrases we're fine with. But then later on page  
19 9 onto 10 of the stipulation, Burge said, yes, he indicated he  
20 wanted to cooperate.

21 So it is not -- I'm not sure why they feel they need  
22 to get into the facts. But Mr. Mu'min has not denied any of  
23 this. He is saying that he -- that the statement, that he  
24 signed it. He says that he did it. There is no reason to go  
25 into the facts.



1           MR. BEUKE: Judge, it is important because the sub-  
2 -- well, I know, I don't want to go into the substance of the  
3 statement. But what he ultimately tells Mr. Crooks and  
4 Detective Paladino is exactly consistent with what happened  
5 here. I mean, he has denied his involvement in the offense in  
6 the past, you know, at prior -- in prior proceedings. And  
7 that, obviously I think we all concede, is a basis of  
8 impeachment.

9           But now that he is admitting it here, and really he's  
10 admitting it kind of for the first time that I did in fact do  
11 this crime, now the fact that at this admission 25 years later,  
12 the facts of what actually happened and the fact that the facts  
13 that actually happened are absolutely consistent with what he  
14 told the prosecutors 25 years ago, is impeaching also.

15           THE COURT: Well --

16           MS. BIFFL: Judge, they can ask if he has ever denied  
17 doing it. But to say that that opens the door to the facts,  
18 that just doesn't even make sense. It is not relevant.

19           THE COURT: Well, I'm just trying to think of a way  
20 that the defense can bring out --

21           MR. BEUKE: Judge, do you want to look at the  
22 handwritten statement? It is not very long. I mean, it is  
23 not -- I mean, if that gives your Honor some universe to --

24           THE COURT: Well --

25           MR. BEUKE: -- make suggestions about --

1 THE COURT: I'll take a look at it.

2 MR. WEISMAN: Judge, can I offer an analogy. This  
3 is -- this is like a co- -- you have a defendant up on a drug  
4 charge. The government presents a cooperating witness. And  
5 that cooperating witness is charged in a whole separate case  
6 with felon in possession.

7 When that cooperating witness was first arrested by  
8 the Chicago Police Department, he denied it was his job. When  
9 he is interviewed by ATF, he denies it was his gun. He then  
10 pleads guilty to the charge of possessing the firearm. And he  
11 wants to cooperate in a separate drug case.

12 A defense attorney could say to the witness, you did  
13 not -- you have been admitted to this gun today, you pled  
14 guilty, but in fact you lied to the Chicago Police Department  
15 about it when you were arrested, isn't that true, false  
16 statement? Yes, that's true.

17 You lied to the ATF when you said you didn't have  
18 anything to do with that gun? False statement can be impeached  
19 on.

20 But that doesn't give that defense attorney to then go  
21 into all the details of that underlying conviction. The  
22 impeachment is absolutely fine. Mr. Mu'min has said in the  
23 past -- well, apparently their version is he has denied this in  
24 the past. Well, if he's denied it in the past, if he engaged  
25 in the criminal conduct, and now he's admitting it, that's

1 proper impeachment. But that does not open the door to this  
2 whole dump of the facts underlying it.

3 We are all stumped as to how these underlying facts of  
4 the offense he's now admitted to in front of the jury, it helps  
5 the defense in that regard. How those underlying facts now  
6 become relevant, it escapes us.

7 MR. BEUKE: Judge, I have to apologize, I missed  
8 Mr. Weisman's brilliant argument. And if you could maybe give  
9 me --

10 MR. MARTIN: I heard it, and I can respond.

11 Your Honor, this is not a drug case or a possession  
12 case. This is a case where Mr. Burge is charged with lying  
13 about what happened during interrogations. The facts of this  
14 particular case are part and parcel. They are the whole body  
15 of evidence. They are the complete story of the interrogation  
16 which he is charged with.

17 This defendant is on trial for lying about using  
18 improper methods and torture during interrogations. In this  
19 case it just happens to be that the facts of Mr. Mu'min's crime  
20 are part and parcel of what he was confronted with both by  
21 Mr. Burge as well as by Detective Paladino and State's Attorney  
22 Crooks.

23 THE COURT: Well --

24 MR. WEISMAN: And the government recognizes that  
25 overlap, but it still escapes how all the details of what he

1 did now become relevant. I agree that my analogy is not a  
2 perfect fit, but it is -- it is illustrative of what is -- why  
3 this is innately wrong.

4 And for them to now try to do something which allows a  
5 dump of facts in that normally wouldn't be at all relevant, I  
6 think raises why this is a problem.

7 MR. MARTIN: Because Mr. Mu'min testified he confessed  
8 because he was tortured. We're allowed to present the other  
9 side of that. We're allowed to present a defense. He  
10 confessed because he was confronted with particular evidence  
11 and he knew he was guilty, and his confession was true.

12 MS. PERRY: And we have agreed with that.

13 MR. MARTIN: That's all we're trying to do.

14 THE COURT: It is a question of -- I mean, I think it  
15 is relevant. The question is does the prejudice outweigh  
16 the -- you know, the benefit to --

17 MS. PERRY: Judge, I think there is a middle ground  
18 here, which is what was told to him during the interrogation is  
19 totally fair game. Or what he knew before the interrogation,  
20 which I think they have already asked about, that someone had  
21 been arrested who was a potential co-defendant, that person  
22 could have talked to the police. He didn't know one way or the  
23 other. That's totally fair game.

24 The only thing we objected to was Mr. Beuke going down  
25 the road of what actually happened during the offense.

1 THE COURT: Well, right. I mean, I thought that's  
2 what we were talking about.

3 MS. PERRY: Right.

4 THE COURT: What was told to him during the  
5 investigation -- I mean during the interrogation.

6 MR. WEISMAN: Right. And so then we would ask, I  
7 guess, for an offer of proof as to the basis that Mr. Beuke  
8 would be able to ask questions that were inherently  
9 prejudicial, which as we foresaw he started to read from the  
10 statement, were you told X, were you told Y?

11 MR. BEUKE: I didn't read from the statement.

12 MS. BIFFL: Well, and Judge --

13 MR. WEISMAN: And so if there is an offer of proof as  
14 to what he was told -- I mean, the stipulation is, I think, a  
15 fair basis. If he was asked -- if he was told those things,  
16 he's fair to inquire into that.

17 THE COURT: Right. But you're talking about other,  
18 other information. Where does that come from?

19 MR. WEISMAN: Correct.

20 THE COURT: All right. That's -- I see that.

21 MR. BEUKE: Judge --

22 THE COURT: So where does it come from?

23 MR. BEUKE: Judge, Mr. Weisman numerous times during  
24 our weeks together has mentioned or used the word inherently  
25 prejudicial when evidence attempts to come in through the

1 defense. I mean, that's what our evidence hopefully is, it is  
2 prejudicial --

3 THE COURT: Okay. Let's see --

4 MR. BEUKE: -- to their theory of the case.

5 THE COURT: -- if we can focus here so we can get back  
6 to work with the jury.

7 MR. BEUKE: Now --

8 THE COURT: You are -- you may talk about what Burge  
9 said to Mu'min during the interrogation if you have a good  
10 faith evidentiary basis for those statements; that is, you  
11 can't just read from his post hoc statement that he signed and  
12 say you were told this during interrogation. Do you see what I  
13 am saying?

14 I mean, what's your proof that these statements were  
15 made --

16 MR. BEUKE: Well --

17 THE COURT: -- to Mu'min during the interrogation?

18 MR. BEUKE: Initially, I mean, we already have the  
19 testimony elicited on direct that he was aware of the fact that  
20 the young lady had been arrested that day, okay, the day of the  
21 robbery.

22 We have the stipulated testimony that the government  
23 has offered into evidence concerning the fact that Mr. Burge on  
24 a prior occasion has testified that he confronted Mr. Mu'min  
25 with additional evidence about the facts that a co-defendant

1 had in fact implicated him in the crime and had made certain  
2 statements relative to his participation in the crime.

3 That I think gives us, you know -- including  
4 Mr. Mu'min's testified already in front of this jury about a  
5 number of conversations that he had with -- including Mr. Burge  
6 making a phone call to his wife, the phone calling being  
7 recorded, the fact that he was attempting to elicit information  
8 relative to the whereabouts of his son which --

9 THE COURT: So the co-defendant is the --

10 MR. BEUKE: -- is the --

11 THE COURT: -- young woman who was arrested?

12 MR. BEUKE: It is the young woman. Her name is Carol  
13 Tyree, Judge.

14 THE COURT: Okay.

15 MR. BEUKE: But with respect to his son, that  
16 information -- Mr. Burge, it is already in evidence through  
17 their direct, that he's asking him about his son.

18 THE COURT: Right.

19 MR. BEUKE: The fact that his son is in fact one of  
20 the people who was -- participated in the armed robbery with  
21 Mr. Mu'min is corroborative of that.

22 THE COURT: Okay.

23 MR. BEUKE: You know, the fact that he, to Mr. Burge,  
24 says, I don't know where my son is or my son didn't have  
25 anything to do with, that in fact I think -- I should be able

1 to confront him about that.

2 The truth is is that your son did participate in this  
3 robbery with you. The truth is is that your son did go into  
4 that chicken store on that date.

5 MS. BIFFL: Well, and, see, that's what --

6 MR. BEUKE: They brought all this out.

7 THE COURT: Okay. The whereabouts of the son was  
8 raised with Burge during the interro- -- I mean, with Mu'min  
9 during the interrogation. So you can ask him if he was  
10 involved. I mean, he was in fact involved, wasn't he, right?  
11 You don't have to go into the details about what his  
12 involvement was. So you can go that far.

13 And then that the co-defendant had given a statement  
14 or then implicated, that was in Mr. Burge's -- in the  
15 stipulation. So you can identify who the co-defendant was and  
16 that he has admitted she had already been arrested.

17 MR. BEUKE: Well, I mean, how about, Judge, the fact  
18 that the son was one of the participants with him in the  
19 crime?

20 THE COURT: That's what I said --

21 MR. BEUKE: Oh, okay.

22 THE COURT: -- you can ask him that without saying  
23 exactly what the son's involvement was. You know, and if he  
24 denies it, then maybe you can follow up with it, but you don't  
25 lead with it.



1 MR. BEUKE: But --

2 THE COURT: See, you have to have a basis in what that  
3 conversation with Mu'min was in the interrogation room, and it  
4 doesn't come from the statement.

5 MR. BEUKE: Well, Judge, I mean, they have -- they  
6 have put in these food for thought, you know, statements of  
7 Mr. Burge. Now I don't know specifically, because it wasn't  
8 explored at that particular hearing, what food for thought  
9 actually meant. Nobody really went into any details. But, you  
10 know, I think --

11 THE COURT: Well, if you have a witness who can come  
12 in and testify about what was said --

13 MR. BEUKE: All right.

14 THE COURT: -- during that conversation. But,  
15 obviously, that's going to be a difficult thing to do.

16 MR. BEUKE: Okay.

17 THE COURT: I don't know.

18 MR. BEUKE: Judge -- well, I'd like to ask the Court  
19 this also. I mean, I think one of the, one of the convictions  
20 of Mr. Mu'min is a -- Ms. Biffl referred to it as a conviction  
21 from 1988. That conviction was based on an armed robbery in  
22 Milwaukee that occurred on July 20th, five days before this  
23 armed robbery, and was a robbery of a Payless shoe store.

24 I don't want to go into any of the facts of that  
25 robbery, anything about that, but I believe it has significant

1 relevance in terms of my cross examination of Mr. Mu'min. He  
2 does file a -- well, he objects to the State of Wisconsin  
3 attempting to extradite him back to Wisconsin while he's in  
4 custody on this case.

5 He is arrested in Chicago while he's out on bond on  
6 this case. And after he's taken into custody, they ask him if  
7 he will sign a waiver to be shipped back to Wisconsin for the  
8 purpose of that charge, he refuses. He hires Mr. Doherty, who  
9 was his lawyer, as well as Mr. Doherty's partner, Mr. Echeles,  
10 and they contest extradition in front of Judge Fitzgerald.

11 At that extradition hearing, he testifies that he was  
12 not in the State of Wisconsin, which is the ultimate issue on  
13 one of those hearings, on the date that this offense allegedly  
14 occurred. He testified that he was living in Chicago.

15 Now he has testified on direct from -- in response to  
16 Ms. Biffel's questions that he was living, I believe, in the  
17 State of Wisconsin in July of 1985. So it is contrary to his  
18 testimony at the extradition hearing. And he subsequently goes  
19 up to Wisconsin, and as she's elicited, he does plead guilty to  
20 his involvement in that offense.

21 THE COURT: Okay. So you want to get in that the  
22 offense with -- for which he was convicted in 1988 occurred  
23 five days before this arrest?

24 MR. BEUKE: This arrest. And he basically --

25 THE COURT: And you want to get in that he lied today

1 about where he lived at the time he was arrested?

2 MR. BEUKE: Well, Judge, he committed perjury in front  
3 of the Chief Judge at that extradition hearing when he  
4 testified that he lived in Illinois, in Chicago, on the date of  
5 that offense.

6 I mean, I --

7 THE COURT: But that's kind of a --

8 MR. BEUKE: -- I don't have to say you committed  
9 perjury, I -- but I certainly would like to confront him about  
10 the fact that he was attempting to preclude himself being  
11 brought back to Wisconsin. And as part of what he did, he lied  
12 during the course of that hearing under oath that he was not  
13 living in Wisconsin and was not in Wisconsin on that date.

14 THE COURT: This is kind of a prior bad act problem, I  
15 guess.

16 MS. PERRY: Judge, it is an untruthful statement,  
17 apparently, under oath. We agree that they can inquire as to  
18 whether he has testified one time that he --

19 (Discussion off the record.)

20 MS. BIFFL: I'm sorry.

21 MS. PERRY: Judge, the appropriate question and answer  
22 was, you testified today that you lived in Wisconsin at the  
23 time. Isn't it true you have testified falsely or you  
24 testified under oath previously that you lived in Wisconsin?  
25 End of story.

1           We don't need to get into an extradition. The fact  
2           that he was apparently asserting his rights to require the  
3           state to go through the proper maneuvers in order to extradite  
4           him --

5           THE COURT: Well, do we have a transcript of his  
6           testimony?

7           MR. WEISMAN: That's the only thing we'd ask for, your  
8           Honor, is an offer of proof.

9           MR. BEUKE: Judge --

10          THE COURT: Do you have a transcript of the testimony  
11          where he said he didn't live in Wisconsin?

12          MR. BEUKE: Yes, Judge.

13          MS. BIFFL: Well, apparently -- no, they have cross  
14          examination from the Police Board Hearing.

15          MR. BEUKE: Well, he was confronted at the Police  
16          Board Hearing, Judge, with his testimony at this extradition  
17          hearing. It says: "Do you remember your extradition hearing  
18          from Milwaukee and you were under oath at that time before the  
19          Chief Judge of the criminal courts, Judge Richard Fitzgerald,  
20          April 16th of 1987. Do you remember testifying at that time?

21          "Answer: No.

22          "Question: Your attorney was Julius Echeles?

23          "Answer: I don't remember testifying to that.

24          "Question: And do you remember this question?

25          Question: Were you working on that day, July 20th, 1985?

1           "Answer: That was on a Saturday, sir. No, sir, I  
2 wasn't.

3           "Question: Do you recall specifically what you did on  
4 that date?

5           "Answer: I have a friend that trained dogs which had  
6 called me on a Friday night and wanted me to work with his dog  
7 off Calumet.

8           "Question: Your friend called you and he wanted to  
9 work a dog on Saturday? Question: Do you remember those  
10 questions and those answers under oath at your extradition  
11 hearing in Milwaukee to take you back?

12           "Answer: No.

13           "Question: Where did you live in July of 1985, in  
14 Chicago?

15           "Answer: I lived in Milwaukee. I didn't live -- no,  
16 I think -- if I recall" --

17           (Discussion off the record.)

18           MR. BEUKE: Yeah.

19           "I didn't live in Chicago.

20           "You lived in Milwaukee in July of 1985?

21           "Answer: That's right."

22           Extradition hearing 16.

23           "Question: Do you recall -- draw your attention to  
24 July 20th, 1985, were you in the State of Wisconsin on or about  
25 that date?

1 "Answer: No, sir.

2 "Question: Were you in the City of Milwaukee on or  
3 about that date?

4 "Answer: No, sir.

5 "Question: Where were you on or about July 20th,  
6 1985?

7 "Answer: I was here in Chicago.

8 "Do you remember those questions and those answers?"

9 MS. PERRY: Being in Chicago and living in Chicago are  
10 two totally different things, Judge.

11 THE COURT: Yeah, they are not same thing, so -- he  
12 said he was living in Milwaukee today, and then --

13 MR. BEUKE: Judge --

14 THE COURT: -- he said he was present in Chicago on  
15 that date, so --

16 MR. BEUKE: Judge, what he has testified --

17 THE COURT: And --

18 MR. BEUKE: -- at that hearing under oath is that on  
19 the date of that armed robbery he was in Chicago, Illinois, he  
20 was not in Milwaukee.

21 The fact is three years later he goes up to Wisconsin  
22 and pleads guilty to doing that armed robbery in Milwaukee,  
23 Wisconsin.

24 So his answers here are completely -- you know, I mean  
25 they are a lie.

1           THE COURT: Okay. But all that's relevant here is can  
2 you impeach him on what he said on the stand today. He said, I  
3 lived in Milwaukee at the time of -- I was interrogated by  
4 Burge.

5           MS. BIFFL: Which was actually October. It was  
6 actually testified to here was October.

7           THE COURT: Right. I mean, if he lied in other  
8 proceedings, that may be a bad thing, but it isn't impeachment  
9 unless you --

10          MR. BEUKE: Judge --

11          THE COURT: -- have prior testimony that impeaches his  
12 testimony here.

13          MS. PERRY: Judge, I think the other problem is it is  
14 not even clear it is untruthful. I could be in Milwaukee two  
15 hours from now. I could be back in four hours.

16          THE COURT: Right.

17          MS. PERRY: The fact that I say I'm in Chicago or  
18 Milwaukee, this is totally collateral.

19          THE COURT: Right. I --

20          MR. MARTIN: Judge, it is our position under 608(b), a  
21 prior statement under oath that is inconsistent is classic  
22 impeachment irrespective of 404(b) or any other rule. A prior  
23 statement under oath that's inconsistent is relevant. It is  
24 not collateral.

25          THE COURT: Well, I agree.

1 MR. MARTIN: And the witness has an opportunity to  
2 explain it. He could say that that's not what I meant.

3 THE COURT: Well, we're not going down that long path  
4 just for an ambiguous, you know, at best ambiguous  
5 impeachment. So I'll have to deny you again I'm afraid.

6 Okay. Let's take five minutes.

7 (Brief recess.)

8 THE COURT: Just to give you a little heads-up here,  
9 I'm going to a wedding at 12:00, so I'm going to break so we'll  
10 take an early lunch today.

11 (Proceedings had in open court in the presence and hearing  
12 of the jury:)

13 MR. BEUKE: May I proceed, Judge?

14 BY MR. BEUKE:

15 Q. Mr. Mu'min, I think you told the ladies and gentlemen  
16 earlier that the first conviction that you were convicted of  
17 was an armed robbery in 1972, correct?

18 A. That's correct, sir.

19 Q. The sentence was 10 to 25 years, correct?

20 A. That's correct.

21 Q. That was out of Ohio, is that correct?

22 A. That's correct.

23 Q. And of that 10-to-25-year sentence you actually served  
24 three and a half years, is that correct?

25 A. That's correct.



1 Q. You were released on parole, is that correct?

2 A. That's correct.

3 Q. And six months later you committed an armed robbery in  
4 Indiana, correct?

5 A. Do you mind repeating that, sir?

6 Q. Well, while you were on parole from your Ohio armed robbery  
7 conviction that you did three and a half years on it, you went  
8 or moved to Indiana, is that correct?

9 Yes or no.

10 A. I don't think I'm understanding the question. Repeat it  
11 one more time.

12 Q. All right. I think you told Ms. Biffel in 1972 that was  
13 your first conviction for armed robbery, correct, out of Ohio?

14 A. That's correct.

15 Q. And your sentence was 10 to 25 years, correct?

16 A. That's correct.

17 Q. And you did three and a half years, correct?

18 A. That's correct.

19 Q. I think you told Ms. Biffel that your next conviction was in  
20 1976, correct?

21 A. That's correct.

22 Q. That was an armed robbery out of Indiana, correct?

23 A. That's correct.

24 Q. And in '76 that was a short time after you had been  
25 released on parole from your Ohio sentence, correct?

1 A. That's incorrect.

2 Q. Well, you were still on parole, correct?

3 In 1976 for that 10-to-25-year sentence.

4 A. Sir, I was released from Ohio, and then they came and got  
5 me. I didn't get out on parole and then committed a crime.

6 The crime was pending --

7 Q. Okay.

8 A. -- and then --

9 Q. So -- I apologize. Did -- so you're telling us that the  
10 Indiana conviction for armed robbery in 1977 was committed at  
11 some point prior to 1977, is that correct?

12 A. That is correct.

13 Q. Okay. And then on the Indiana conviction in 1977, you were  
14 sentenced again to 10 to 25 years, correct?

15 A. That's correct.

16 Q. And you did four years out of that sentence in Indiana, is  
17 that correct?

18 A. That's incorrect.

19 Q. Okay. Well, how long did you spend in the Indiana State  
20 Penitentiary for that 10-to-25-year sentence?

21 A. To the best of my knowledge may have been about two and a  
22 half years. I got released earlier.

23 Q. Two and a half years?

24 A. Maybe.

25 Q. Okay. And I think you told Ms. Biffel that in addition to

1 those two armed robberies, in 1988 you pled guilty to an armed  
2 robbery in Wisconsin, correct?

3 A. That's correct.

4 Q. So it is clear for the ladies and gentlemen the date for  
5 the armed robbery in Wisconsin that you committed was July 20th  
6 of 1985, correct?

7 A. To the best of my knowledge.

8 Q. And the date of the armed robbery in Chicago, attempt  
9 murder that you were convicted of, was July 25th of 1985,  
10 correct?

11 A. I'm not sure on the date.

12 Q. Okay. Well, it was after the armed robbery in Wisconsin,  
13 correct?

14 Several days?

15 A. I'm not sure, sir.

16 Q. Okay. Well, sir, is it correct that the defendants on your  
17 case in Milwaukee, Wisconsin, also included your son and Rio  
18 Harper?

19 A. That's correct.

20 Q. And they were likewise convicted of the armed robbery in  
21 Chicago, correct?

22 A. That's correct.

23 Q. They pled guilty to those offenses, didn't they?

24 A. I'm not sure.

25 Q. Okay. Well, in any event, sir, you told us about your

1 arrest on October 30th of 1985, correct?

2 A. That's correct.

3 Q. You had a light brown Buick, did you not?

4 A. Correct.

5 Q. Tactical officers from the 7th District stopped your car

6 after you had pulled away from a house over on Wolcott,

7 correct?

8 A. Correct.

9 Q. And when they stopped your car, they told you what you were  
10 being stopped for, correct?

11 A. To the best of my knowledge.

12 Q. They told you that you were wanted for that armed robbery  
13 attempted murder, didn't they?

14 A. I'm not sure.

15 Q. Okay. Well, in any event they searched your car, correct?

16 A. That's correct.

17 Q. And they found a --

18 MS. BIFFL: Objection --

19 BY MR. BEUKE:

20 Q. -- .38 caliber gun --

21 MS. BIFFL: -- to relevance.

22 BY MR. BEUKE:

23 Q. -- in your car, didn't they?

24 MS. BIFFL: Objection --

25 THE COURT: Sustained,

1 MS. BIFFL: -- to relevance.

2 BY MR. BEUKE:

3 Q. Well, you were -- in addition to this armed robbery,  
4 attempt murder, you were also charged with a felony UUW for the  
5 .38 that you had in the car when were you stopped, correct?

6 MS. BIFFL: Objection, Judge. That was not a  
7 conviction that we're talking about.

8 BY THE WITNESS:

9 A. Repeat that, sir.

10 THE COURT: Sustained.

11 BY THE WITNESS:

12 A. Do you mind repeating it?

13 BY MR. BEUKE:

14 Q. Well, sir, at some point you said you were taken to the  
15 Seventh -- a police station on 67th Street, is that correct?

16 A. I'm not sure --

17 Q. Well --

18 A. -- where it was at.

19 Q. All right. Do you recall being taken to a police station  
20 at 61st and Racine?

21 A. It is possible it could have been.

22 Q. And, Mr. Mu'min, your car was impounded also, correct?

23 A. Yes.

24 Q. And you had items in your car that were impounded in  
25 addition, correct?

1 A. Correct.

2 Q. And after -- or while you were waiting at the 7th District,  
3 you had conversations with those 7th District officers, didn't  
4 you?

5 A. To the best of my knowledge.

6 Q. Okay. And I think you told Ms. Biffl -- excuse me --  
7 Ms. Biffl at some point during that conversation you were  
8 informed that people from Area 2 were coming to pick you up,  
9 correct?

10 A. That's correct.

11 Q. Okay. Were you ever informed about charges other than the  
12 armed robbery and the attempted murder that arose out of Area  
13 2?

14 MS. BIFFL: Objection, relevance.

15 BY THE WITNESS:

16 A. No.

17 THE COURT: Wait. Wait a minute.

18 THE WITNESS: Oh.

19 THE COURT: I'll sustain.

20 BY MR. BEUKE:

21 Q. Well, sir, at some point you were arrested by the 7th  
22 District officers at approximately 7:00 o'clock in the evening,  
23 is that correct?

24 A. Possible.

25 Q. Well, no one was in the car with you, is that correct?

1 A. That's correct.

2 Q. Now you have testified or given statements in the past that  
3 there was in fact people in the car with you, isn't that  
4 correct?

5 A. I don't recall, sir.

6 Q. Do you ever recall or do you know a young lady by the name  
7 of Latoya?

8 Or do you know a gentleman by the name of Keith?

9 A. Yes.

10 Q. Okay. You recall being in Centralia Correctional Center in  
11 October of 1990 as a result of your conviction for the attempt  
12 murder in 1985?

13 A. To the best of my knowledge, yes.

14 Q. And when you were in Centralia, an FBI agent came down to  
15 speak with you, isn't that correct?

16 Do you remember an FBI agent by the name of Jackie  
17 Kase coming down there on October 29th of 1990?

18 A. I don't recall, sir.

19 Q. Do you remember your appellate lawyer, Mr. Joseph Gump, and  
20 Timothy Lemming, L-e-m-m-i-n-g, being down there and present  
21 for that interview at Centralia?

22 Do you remember that?

23 A. I can't say that I do, sir.

24 Q. Well, Timothy Lemming and Mr. Gump, Joseph Gump,  
25 represented you on your appeal, didn't they?

1 A. To the best of my knowledge, they did. I don't recall who  
2 -- what the names was.

3 Q. Well, were they from the Public Defender's Office?

4 A. I'm not sure.

5 Q. So, sir, is it correct that on October 29th of 1990 in the  
6 presence of Mr. Gump and Mr. Lemming from the Public Defender's  
7 Office, you told Special Agent Jackie Kase that at  
8 approximately 5:30 or 6:00 o'clock in the evening on October  
9 30th of 1985, you left Keith's house and were going to drop  
10 Keith's wife, Latoya, and her two young children off at the  
11 hospital. As you turned on to Halsted, you were stopped by two  
12 plain clothes Chicago police officers. Both of these officers  
13 were white males and you did not know their name.

14 Did you tell that to Special Agent Kase?

15 A. It is possible.

16 Q. Well, you just testified when the officers stopped you and  
17 placed you under arrest, you were alone in the car, correct?

18 A. I could have.

19 Q. Okay. Well, tell the ladies and gentlemen, Mr. Mu'min,  
20 what the truth is. Were you alone in the car or did you have a  
21 young lady by the name of Latoya and her two babies in the car  
22 with you?

23 A. It is --

24 Q. What's the truth?

25 A. It is possible that I did have. I forgot -- my memory, I



1 did not remember.

2 Q. Well, I mean, prior to that you had testified in a motion  
3 to suppress your confession, correct?

4 A. That's correct.

5 Q. And at that moment to suppress your confession, that was in  
6 front of Judge Manion in 1986 or '87, correct?

7 A. Yes.

8 Q. And you were asked questions by your attorney, Mr. Doherty,  
9 weren't you?

10 A. Yes.

11 Q. And during the course of your questioning at your motion to  
12 suppress, you were under oath, correct?

13 A. Correct.

14 Q. And you talked about being stopped by police, correct?

15 A. Correct.

16 Q. And during the course of your testimony, you never  
17 mentioned the fact that you were with Latoya and two kids when  
18 the officers stopped you, did you?

19 A. No.

20 Q. This Latoya and her two babies that you were dropping off  
21 at the hospital, that came three years later, didn't it?

22 A. I have no knowledge.

23 Q. Well, sir, in any event, at some point you told the ladies  
24 and gentlemen that you went to the 7th District and waited  
25 there for a period of time and some officer came and got you

1 and took you to Area 2.

2 Is that correct?

3 A. Yes.

4 Q. Approximately, sir, you got to Area 2 at what time?

5 A. May have been around 8:00 o'clock, I'm not sure.

6 Q. 8:00 o'clock at night, is that correct?

7 A. That's correct.

8 Q. And some time after you were placed in an interview room,  
9 correct?

10 A. Yes.

11 Q. Handcuffed, correct?

12 A. Repeat that.

13 Q. Were you handcuffed in the interview room? Yes or no.

14 Were you handcuffed?

15 A. Yes.

16 Q. Oh, okay.

17 Now at some point after that you told the ladies and  
18 gentlemen that Lieutenant Burge came in, correct?

19 A. That's correct.

20 Q. And he asked you if you would talk with him, correct?

21 A. Yes.

22 Q. He was alone, correct?

23 A. To the best of my knowledge, he was.

24 Q. Did he tell you that you were there for the armed robbery  
25 attempted murder of the person who owned the Brown's Chicken on

1 116th and Western?

2 A. He could have. I don't recall.

3 Q. Well, you told him at that point I don't know anything  
4 about it, correct?

5 A. That's correct.

6 Q. And so it is clear, Mr. Mu'min, that's a lie. You knew  
7 about it, correct?

8 A. Yes.

9 Q. You lied to him, correct?

10 A. Yes.

11 Q. And he told you he didn't believe you, correct?

12 A. Right.

13 Q. Your testimony is he then came and tightened the cuffs on  
14 you, correct?

15 Right?

16 A. Yes.

17 Q. Okay. And he made them so tight that you were -- the  
18 circulation was being cut off in your hands, correct?

19 A. That's correct.

20 Q. He left out of the room and let you sit there, correct --

21 A. That's correct.

22 Q. -- with those cuffs and that --

23 A. That's correct. Okay?

24 Q. -- and your hand -- your hands were beginning to swell,  
25 correct?

1 A. That's correct.

2 Q. And he came back about 15 minutes later, correct?

3 A. Somewhere around there, 20, 30 minutes.

4 Q. All right. And then you said he asked you again would you  
5 -- where is your son, correct?

6 A. To the best of my knowledge that's what I said.

7 Q. Yeah, your son, Shadeed Sharif, correct?

8 A. That's correct.

9 Q. And that was the guy that you had done the armed robbery  
10 attempted murder with, correct?

11 A. Correct.

12 Q. And he asked you about G-Man, didn't he?

13 A. It is possible.

14 Q. Rio Harper, that's the other guy that went along for the  
15 armed robbery attempted murder, correct?

16 A. Yes.

17 Q. Okay. And he asked you again did you know where those  
18 people were at. Correct?

19 A. Yes.

20 Q. Did he tell you, Mr. Mu'min, that, listen, you're a twice  
21 convicted armed robber. You can help us. Give us information  
22 about where they are at. Something to that effect?

23 A. He could have to --

24 Q. Well, did he?

25 A. I'm not sure.

1 Q. Okay. Well, you remember having a conversation with  
2 Lieutenant Burge about the fact that you could help yourself if  
3 you helped them locate the whereabouts of G-Man and your son.

4 You remember that conversation, don't you?

5 A. I'm not sure.

6 Q. Okay. Well, at some point you had a conversation with him  
7 about your son, correct?

8 A. Yes.

9 Q. And you say your testimony is that after you lied to him  
10 again, he tightened the cuffs even harder, correct?

11 A. That's correct.

12 Q. And did he now handcuff you behind your hands and cuff you  
13 to the ring in the wall?

14 A. Not at first.

15 Q. Well, did he do that after you told him you didn't know  
16 anything about this?

17 A. After I didn't talk. That's when he chained the cuff.

18 Q. Well, my question, sir, is that he made these cuffs even  
19 tighter on you, correct?

20 A. That's correct.

21 Q. And the pain you were experiencing in your wrist was  
22 excruciating. That's what you are telling the ladies and  
23 gentlemen, right?

24 A. That's the truth.

25 Q. The circulation in your hands was cut off, correct?

1 A. That's true.

2 Q. Your hands were swollen up?

3 A. That's the truth.

4 Q. Okay. And then at some point your testimony is he came  
5 back in and he got you, unhandcuffed you, and walked you into  
6 his office, correct?

7 A. That's incorrect.

8 Q. Well, when did he come and get you and bring you into the  
9 office?

10 A. After I had been cuffed to the wall with one hand.

11 Q. How long?

12 A. In approximately 20, 30 minutes.

13 Q. So this is approximately, what, an hour after you had  
14 been -- after you arrived at Area 2?

15 A. It is possible.

16 Q. Okay. Could have been longer?

17 A. Could have.

18 Q. Okay. And at some point he came and took you from that  
19 interview room and brought you into his office, correct?

20 A. That's correct.

21 Q. And when he brought you into his office, you weren't  
22 cuffed, that's your testimony.

23 Right?

24 A. I'm not sure.

25 Q. Well, you said you sat down in Lieutenant Burge's office,

1 didn't you?

2 A. Yes.

3 Q. There were police officers who were -- Lieutenant Burge's  
4 office is a rather small office, correct?

5 A. To the best of my knowledge, yes.

6 Q. Well, you were in there. What did it look like?

7 A. It had a desk, chairs.

8 Q. What else?

9 A. And a typewriter.

10 Q. Do you remember a filing -- a big long filing cabinet along  
11 the one wall?

12 A. I'm not sure.

13 Q. Do you remember a big window being in there?

14 A. Yes, it had a window.

15 Q. The door you walked through, you actually had to go through  
16 another office to get into the lieutenant's office, correct?

17 A. I'm not sure.

18 Q. Well, do you remember seeing two police officers seated at  
19 desks in the office outside of the lieutenant's office?

20 Yes or no.

21 A. I'm not sure.

22 Q. Okay. Well, in any event, when you got into Burge's  
23 office, there are two chairs on the other side of his desk,  
24 aren't there?

25 A. I'm not sure.

1 Q. Well, you sat down, correct?

2 A. Yes.

3 Q. And you remember the chair that you sat in, was it opposite  
4 Lieutenant Burge's desk?

5 A. It was in front of the desk the chair that I sat in.

6 Q. Was there another chair there also?

7 A. I'm not sure.

8 Q. Okay. Well, in any event you said Lieutenant Burge asked  
9 you again about the whereabouts of your son, correct?

10 A. That's correct.

11 Q. And he asked you if you could help him locate your son,  
12 correct?

13 A. That's true.

14 Q. You knew that he was looking for the people who had shot  
15 the man inside of the Brown's Chicken, correct?

16 A. Yes.

17 Q. He had told you that he didn't want you to go down for the  
18 shooting, that you could help yourself, isn't that correct?

19 A. Could have been.

20 Q. And he told you, listen, is it possible that your wife  
21 might know where your son is, isn't that right?

22 A. To the best of my knowledge.

23 Q. And again you lied to him, correct?

24 A. No.

25 Q. Well, you told him you didn't know anything about the case,



1 correct?

2 Right?

3 A. When he asked me at the time, I told him I had no knowledge  
4 of that, yes.

5 Q. And you lied.

6 Right?

7 Isn't that right, Mr. Mu'min?

8 A. That's right.

9 Q. Okay. I mean, you had gone down twice for armed robberies,  
10 and this would have been your third, is that correct?

11 A. Yes.

12 Q. Shadeed Mu'min, when he sat in that room knew that if you  
13 went down for a third armed robbery, you could conceivably get  
14 60 years in jail, correct?

15 MS. BIFFL: Objection.

16 BY THE WITNESS:

17 A. I'm not sure.

18 THE COURT: Overruled.

19 BY MR. BEUKE:

20 Q. Well, sir, your testimony is what Lieutenant Burge did then  
21 was he asked you or he placed a phone call to your wife, isn't  
22 that correct?

23 A. That's correct.

24 Q. The purpose of the phone call was to see if anybody could  
25 give Mr. Burge and his detectives information about the

1       whereabouts of your son, correct?

2       A.   To the best of my knowledge, yes.

3       Q.   And, again, to the best of your knowledge, the conversation  
4       you had with Mr. Burge was that he wanted to get the people who  
5       did the shooting, correct?

6       A.   I'm not sure.

7       Q.   He knew, didn't he, that you were the driver, correct?

8       A.   I'm not sure.

9       Q.   Well, he told you about Carol Tyree, didn't he?

10      A.   I'm not sure.

11      Q.   Well, you mentioned the young girl that went along with you  
12      and your son and Mr. Harper to the Brown's Chicken that day,  
13      correct?

14      A.   Yes.

15      Q.   You knew, didn't you, according to your testimony for the  
16      ladies and gentlemen, that she didn't make it back to your car  
17      that afternoon, correct?

18                 She was arrested.

19      A.   Yes.

20      Q.   And you knew that she had been interviewed by the  
21      detectives who were working on the case, isn't that correct?

22      A.   That's correct.

23      Q.   And Lieutenant Burge told you that she had given them a  
24      statement and she had told the detectives that you were the  
25      driver of the car, isn't that right?

1 A. That's correct.

2 Q. And that she had told them that your son and Rio Harper  
3 shot the man in the Brown's Chicken, isn't that right?

4 THE COURT: Wait.

5 BY MR. BEUKE:

6 Q. Is that what he told you?

7 A. I'm not sure what he told me.

8 Q. Well, you had a conversation with him, you recall, about  
9 Carol Tyree, the young girl, correct?

10 A. I remember that.

11 Q. Okay. And he gave you information about what she had told  
12 the detectives. Is that a fair statement?

13 A. I think so.

14 Q. Just so it is clear, the car that you were arrested in that  
15 night, that was the same car that you used on this armed  
16 robbery attempt murder, wasn't it?

17 A. Yes.

18 Q. Same car that you guys used up in Milwaukee, wasn't it?

19 A. I'm not sure what you --

20 Q. Well --

21 A. I'm not clear on the question that you are asking. Repeat  
22 it.

23 Q. Okay. Did Lieutenant Burge tell you that the car that you  
24 were arrested in had been identified as the car that was used  
25 to get away from the scene on Western Avenue?

1           He told you that, didn't he?

2     A.   I'm not sure.

3     Q.   Well, in any event, sir, with respect to his phone call,  
4   did you make the phone call or did he make the phone call?

5     A.   He dialed the number.

6     Q.   Well, you gave him the number, didn't you?

7     A.   Yes, I did.

8     Q.   Yeah. You told him your wife's number up in Wisconsin,  
9   didn't you?

10    A.   Yes, I did.

11    Q.   You were attempting to allow him to call your wife to see  
12   if she could give him information about the whereabouts of your  
13   son, isn't that right?

14    A.   That's true.

15    Q.   Okay. You were hoping that she could tell Mr. Burge where  
16   your son was, correct, because that would help you out?

17    A.   Nope. I wasn't --

18    Q.   Well --

19    A.   That's incorrect. That's not -- that's incorrect.

20    Q.   Well, let me see if I get this right. You gave Mr. Burge  
21   your wife's phone number knowing that he was going to call her  
22   and ask where your son was, correct?

23    A.   Yes.

24    Q.   And is it your testimony that you had some prior knowledge  
25   that you knew your wife was going to tell him, you know, false

1 information?

2 A. No, I didn't.

3 Q. Did you have any belief that your wife didn't know where  
4 your son was at?

5 A. Yes, I did believe him.

6 Q. Well, your son was where back then?

7 A. I have no knowledge of that.

8 Q. Well, how do you know that your wife didn't know where he  
9 was?

10 A. I took her word for it.

11 Q. Well, when did you talk to her prior to October 30th of  
12 1985?

13 A. I don't recall, sir.

14 Q. Well, did you call her up while you were on the run for  
15 this case and say, hey, dear, if you get a phone call from some  
16 police officers asking where Sharif is, make sure you tell him  
17 you didn't know where he's at.

18 MS. BIFFL: Objection, Judge, calls for hearsay.

19 THE COURT: What did you say?

20 MS. BIFFL: Calls for hearsay.

21 THE COURT: Sustained.

22 BY MR. BEUKE:

23 Q. Well, you don't remember when the last time you spoke to  
24 your wife prior to October 30th of 1985 was, isn't that  
25 correct?

1 A. To the best of my knowledge, yes, that's correct.

2 Q. Okay. Now according to you Lieutenant Burge called her,  
3 correct?

4 Right?

5 A. Yes.

6 Q. Spoke with her, correct?

7 A. He didn't speak with her.

8 Q. You spoke to her, right?

9 A. Yes.

10 Q. And you asked your wife, hey, dear, do you know where  
11 Sharif is, didn't you?

12 A. Yes, I did.

13 Q. And did you tell your wife, I am in Area 2 at 111th Street  
14 in Chicago locked up for an attempt murder armed robbery?

15 A. Yes.

16 Q. You told her that?

17 A. Yes.

18 Q. Did you tell her, can you come down here and help me?

19 A. No, I did not.

20 Q. Did you tell her the police officers are asking me for  
21 information as to where Sharif is?

22 A. No, I did not.

23 Q. Did you tell her if you give them information, it could  
24 help me?

25 A. No, I did not.

1 Q. What happened?

2 A. She said she didn't know.

3 Q. And then what happened?

4 A. That was the end of it.

5 Q. And you say Lieutenant Burge recorded that?

6 A. He did.

7 Q. And he played it back for you, right?

8 A. He did.

9 Q. Well, why did he have to pay -- play it back for you, you  
10 were on the phone with her?

11 Right?

12 A. I'm not in a position to ask why he taped it.

13 Q. Well, in any event, he asked you again, according to your  
14 testimony, if you could tell him where the boys were at,  
15 correct?

16 A. He asked me.

17 Q. Okay. And again you denied knowing anything about their  
18 whereabouts, correct?

19 A. Yes, I did.

20 Q. Is it at that point in time, Mr. Mu'min, that you say he  
21 took this .44 revolver out of a drawer?

22 A. Around that time, after he made -- after the phone call had  
23 been made.

24 Q. He pulled -- you -- you're familiar with a .44 revolver,  
25 correct?

1 A. I think so.

2 Q. Yeah. I mean you have seen them before, correct?

3 A. Yes, I have.

4 Q. And when he pulled the revolver, according to Mr. Mu'min's  
5 version, he took it out and it was fully loaded, correct?

6 A. Yes, it was.

7 Q. Six bullets in the chamber, correct?

8 A. Yes.

9 Q. You could see that, correct?

10 A. Yes.

11 Q. Okay. And he took all six bullets out of the chambers,  
12 correct?

13 A. Took them all out except one.

14 Q. Well, you knew there was one in the chamber, correct?

15 A. I could see it.

16 Q. And tell the ladies and gentlemen what this mad man did  
17 then. Tell them what he did.

18 A. He put it back -- the cylinder back in it with the bullet  
19 in it and snapped it.

20 Q. Well, he spun the cylinder, didn't he?

21 A. He spun the cylinder --

22 Q. Yeah.

23 A. -- and he placed it to my head.

24 Q. I mean, it was his version of Russian roulette with you,  
25 correct?



1 A. Yes.

2 Q. As soon as he closed the -- slapped the cylinder closed, he  
3 put the gun right up to your head, right?

4 A. That's correct.

5 Q. Boom, pulled the trigger, didn't he?

6 A. Then --

7 Q. You didn't know where the bullet was, did you?

8 A. No, I did not.

9 Q. You didn't know if he was going to blow your head off, did  
10 you?

11 MS. BIFFL: Objection to --

12 BY THE WITNESS:

13 A. That's correct.

14 MS. BIFFL: -- counsel's --

15 BY THE WITNESS:

16 A. That's correct. That's correct.

17 BY MR. BEUKE:

18 Q. After the gun didn't go off, Mr. Mu'min, you say then he  
19 popped the cylinder out again, correct?

20 A. No, I did not.

21 Q. Well, did he pop the cylinder out and spin it a second  
22 time?

23 A. He spinned it a second time and --

24 Q. Slapped the cylinder closed, correct?

25 A. That's correct.

1 Q. Put it up to your forehead, correct?

2 A. That's correct.

3 Q. Leaned over the desk and put it right to your forehead,  
4 didn't he?

5 A. That is correct.

6 Q. Squeezed the trigger a second time?

7 A. That is correct.

8 Q. And again you didn't know where the bullet was, did you?

9 A. That is correct.

10 Q. And you didn't know if your head was going to get blown off  
11 that time, did you?

12 A. That's correct.

13 Q. Third time he did it again, didn't he?

14 A. That's correct.

15 Q. And the same thing, leaned over, opened the chamber, spun  
16 the cylinder, slapped it shut, and put it to your head, and  
17 pulled the trigger, boom, like that, right?

18 A. Right.

19 Q. You didn't even, according to Shadeed Mu'min, you didn't  
20 even budge, did you?

21 A. I didn't.

22 Q. Okay. You showed him, didn't you?

23 MS. BIFFL: Objection.

24 THE COURT: Sustained.

25 BY MR. BEUKE:

1 Q. Well, here, Mr. Mu'min, at that point you said this  
2 associate was in the doorway, correct?

3 A. That's the truth.

4 Q. Okay. And the associate that was in the doorway was just  
5 standing there, correct?

6 A. Standing there looking.

7 Q. Watching everything, right?

8 A. Yes.

9 Q. And you said Burge comes around the desk and he puts a  
10 plastic typewriter cover over your head, correct?

11 A. That's correct.

12 Q. And he pulls the typewriter cover around your neck,  
13 correct?

14 A. I didn't say that.

15 Q. Well, what did he do? Tell the ladies and gentlemen.

16 A. He force it down into my face.

17 Q. Well, did he hold it against your face?

18 A. Yes, he did.

19 Q. And he held it against your face for long enough where  
20 Shadeed Mu'min passed out, correct?

21 A. That is correct.

22 Q. Then the next thing that Shadeed Mu'min remembers is Burge  
23 is right over your mouth blowing -- blowing air into your lungs  
24 and brings you back to life, correct?

25 That's your testimony?

1 A. That's my testimony.

2 Q. Was he giving you mouth to mouth?

3 A. No.

4 Q. Pretty close?

5 A. I wouldn't say that.

6 Q. Well, he just blew some air at you, and you came back to  
7 life miraculously, right?

8 Right?

9 A. Yes.

10 Q. After he did that, you say he did it a second time,  
11 correct?

12 A. That's correct.

13 Q. And this associate is outside in the doorway, right?

14 A. He was in the doorway.

15 Q. And choked you out a second time, correct?

16 A. That's correct.

17 Q. Shadeed Mu'min passes out again. Right?

18 A. Right.

19 Q. Out cold, correct?

20 A. I was out.

21 Q. You don't remember where you were at at that point, do you?

22 A. That's possible.

23 Q. And then miraculously you get air blown on you again,  
24 correct, and you come back to life, right?

25 A. Right.

1 Q. And he did it a third time according to you, right?

2 A. He started a third time, yes.

3 Q. And then he, according to you, enlisted the help of the  
4 associate, correct --

5 A. He --

6 Q. -- who was standing in the doorway, right?

7 A. Yes.

8 Q. Okay. The associate, he saw all of this and was standing  
9 in the doorway when Shadeed Mu'min had this .44 revolver put to  
10 his head three times, didn't he?

11 MS. BIFFL: Objection, calls for speculation on this  
12 witness's part.

13 THE COURT: Can you rephrase the question?

14 BY MR. BEUKE:

15 Q. Well, here, when you -- you told the ladies and gentlemen  
16 about him putting the gun to your head the first time. The  
17 associate is right in the doorway, correct?

18 A. That's true.

19 Q. And the second time he's right in the doorway, right?

20 A. That's true.

21 Q. Third time, same thing. He never moved, did he, according  
22 to you. Right?

23 A. He didn't move along as he had the gun to my head.

24 Q. Well, okay. And the first time when he came around the  
25 desk and put the bag over your head, that's -- the associate

1 was still there, right?

2 A. That's correct.

3 Q. After you got air blown into you and miraculously woke up,  
4 he was still there, wasn't he?

5 A. That's incorrect.

6 Q. Where was he?

7 A. He was there, but he was -- he was standing in the doorway  
8 as he was before, but he was present during that the action of  
9 all this.

10 Q. Well, your testimony is that the associate actually got  
11 involved in this.

12 A. He called him -- that's incorrect. He called him to get  
13 involved when I stood up with the chair.

14 Q. Okay. And when he told him to get involved, he told him  
15 to, hey, hold him down, right?

16 A. He's coming at me, hold him.

17 Q. Well, why did he need you held down if he had choked you  
18 out twice previously on his own? Why did he need him?

19 A. I have no knowledge of that, sir.

20 Q. Oh, okay. But the associate, according to Shadeed Mu'min,  
21 actually came in and held you down, right?

22 A. He held my shoulder down.

23 Q. Oh. And then you were choked out the third time, correct?

24 A. I didn't choke all the way out the third time.

25 Q. All right. Well, at some point you say that you said to

1 Lieutenant Burge, I'll sign anything, correct?

2 A. That's correct.

3 Q. Did you say to Lieutenant Burge, Lieutenant Burge, I will  
4 tell you everything that me and Sharif and Rio and Carol Tyree  
5 did on July 25th of 1985?

6 A. No, I did not.

7 Q. Did you tell -- did he ask you, Mr. Mu'min, okay, Shadeed,  
8 tell me what you guys did, tell me what happens when you guys  
9 shot the guy in the Brown's Chicken?

10 Did he say that to you?

11 A. I don't recall.

12 Q. According to you you didn't say anything to him about the  
13 attempted murder or armed robbery, did you?

14 A. No, I --

15 Q. Yes or no.

16 A. No.

17 Q. And according to you Mr. Burge didn't ask you any questions  
18 about that, correct?

19 A. That's incorrect.

20 Q. Well, did he ask you, tell me what happened when you guys  
21 went to the Brown's Chicken and the guy was shot?

22 A. I don't recall that.

23 Q. Well, did he ask you anything about the attempted murder?

24 A. I don't recall.

25 Q. Well, what you told the ladies and gentlemen is after that

1 you were taken back to the interview room, right?

2 A. After the ordeal was over?

3 Q. Yeah. Correct?

4 A. Correct.

5 Q. By him, correct?

6 A. To the best of my knowledge.

7 Q. Okay. And you were put in the interview room and you  
8 weren't handcuffed, is that right?

9 A. That's correct.

10 Q. Your handcuffs -- hands were all swollen, correct, from the  
11 two hours that you had spent with the cuffs wrapped around your  
12 hand so tight, correct?

13 A. That's incorrect.

14 Q. Well, you told the ladies and gentlemen that when the cuffs  
15 were on, your hands were swelling up, your wrists were swelling  
16 up, correct?

17 A. Yes, I did.

18 Q. They were on so tight that they cut off the circulation,  
19 correct?

20 A. Yes.

21 Q. Okay. And your testimony is you remained in that interview  
22 room until some time the next morning, isn't that right?

23 A. That's incorrect.

24 Q. Well, how long did you stay in the interview room,

25 Mr. Mu'min?



1 A. If I may, the answer to the question that you asked first,  
2 when the swelling -- my remembrance of telling the ladies and  
3 gentlemen of the jury is that happened when I went there that  
4 he did -- the cuffs were placed on me and cut my circulation.  
5 This didn't happen after I come out of his office.

6 Q. No, I understand that. That -- the cuffs that you  
7 described how tight they were, and they cut off the  
8 circulation, you were in that room cuffed like that for about  
9 two hours, correct?

10 A. No, that's incorrect.

11 Q. How long?

12 A. I had said about 20 minutes or 30 minutes.

13 Q. And long enough, obviously, for your hands and your wrists  
14 to swell, correct?

15 A. That's correct.

16 Q. Okay. And long enough for -- after the cuffs were taken  
17 off, you could feel the bruises to your hands starting to  
18 develop already, isn't that right?

19 A. I could see it.

20 Q. Okay. You saw it, correct?

21 A. That's correct.

22 Q. Okay. Now when did you next see somebody from the police  
23 department in that interview room?

24 A. Next day.

25 Q. Paladino?

1 A. Paladino.

2 Q. 9:00 or 10:00 o'clock in the morning, correct?

3 A. Sound correct.

4 Q. All right. Paladino came in and introduced yourself --  
5 himself to you and told you he was the detective working on the  
6 armed robbery attempted murder, isn't that right?

7 A. He could have.

8 Q. Paladino came in and he had advised you of your rights,  
9 didn't he?

10 A. I don't recall.

11 Q. Okay. He sat down with you and asked you about the armed  
12 robbery attempted murder, isn't that correct?

13 A. I don't recall.

14 Q. Okay. Well, a while after Paladino came in, do you  
15 remember Paladino telling you, Shadeed, I'm going to call the  
16 State's Attorney's Office?

17 Do you remember him telling that you?

18 A. I don't recall. He could have.

19 Q. Okay. Well, if he could have, at some point that morning  
20 or that afternoon, you actually met somebody who introduced  
21 himself to you, correct?

22 A. That is correct.

23 Q. Okay. The person who introduced himself to you, he was a  
24 male black, correct?

25 A. That's correct.

1 Q. Wilbur Crooks he told you his name was, isn't that right?

2 A. That's correct.

3 Q. Mr. Crooks, when he came in the room, he explained to you  
4 that he was an assistant State's Attorney, didn't he?

5 A. He could have, yes.

6 Q. That he was a prosecutor, correct?

7 A. He could have.

8 Q. That he wasn't your lawyer, correct?

9 A. That's correct.

10 Q. He told you that he had spoken to Detective Paladino,  
11 correct, about the case?

12 Correct?

13 A. I'm not sure about that.

14 Q. Well -- okay. Well, after he told you who he was and who  
15 he worked for, did he ask to speak with you about anything that  
16 you knew about the armed robbery attempted murder at the  
17 Brown's Chicken on July 25th of 1985?

18 A. I don't recall that either, sir.

19 Q. Okay. So your testimony is after he did all of this, he  
20 didn't advise you of your rights either, did he?

21 A. He didn't.

22 Q. The State's Attorney did.

23 A. Yes.

24 Q. You had a conversation with him, didn't you?

25 A. Not about that.

1 Q. Well, did he tell you, Mr. Mu'min, do you understand that  
2 you have a right to remain silent?

3 A. He could have.

4 Q. Did he say if you give up your right to remain silent,  
5 anything you say can and will be used against you?

6 A. It is possible he said that.

7 Q. Did he tell you that you had the right to an attorney?

8 A. He could have.

9 Q. Did he tell you that if you couldn't afford an attorney and  
10 have him present with me during any questioning.

11 If you couldn't afford an attorney -- to hire an  
12 attorney, one will be appointed by the Court to represent you  
13 before any questioning. Did he tell you that?

14 A. It is possible he did?

15 Q. He explained all of those rights to you, didn't he, sir?

16 A. He could have.

17 Q. And after he explained all of those rights to you, Shadeed  
18 Mu'min says that he didn't ask you one question about the armed  
19 robbery, did he?

20 A. Repeat that. Do you mind repeating that?

21 Q. He didn't asked you any questions about that armed robbery  
22 of the Brown's Chicken and the shooting of Mr. Plowman, did  
23 he?

24 A. No, he did not.

25 Q. He left out of the room, according to Shadeed Mu'min,

1 correct?

2 Right?

3 A. After I signed the statement here.

4 Q. Well, let's talk about that, Mr. Mu'min. Is it your  
5 testimony that you never told assistant State's Attorney Wilbur  
6 Crooks one thing about your involvement in that shooting?

7 Is that your testimony?

8 A. To the best of my knowledge that's my testimony.

9 Q. Is it your testimony that assistant State's Attorney Wilbur  
10 Crooks came into the room and he gave you a statement and told  
11 you to sign it?

12 Yes or no.

13 A. That's true.

14 Q. That statement that's in front of you, correct?

15 A. That's true.

16 Q. So you never told him any of the things that are in this  
17 document, correct?

18 A. Not to my knowledge, no.

19 Q. Everything that is in this document is something that  
20 Wilbur Crooks just decided to write down and put in front of  
21 you, correct?

22 A. I have no knowledge how he got it.

23 Q. Well, you didn't give it to him, correct?

24 A. No, I did not.

25 Q. None of the information -- you have read this previously,

1 haven't you?

2 A. Yes, I have read it.

3 Q. You have gone over it with Ms. Biffl, haven't you?

4 A. I read it.

5 Q. So if there are -- there is -- in this document information  
6 concerning your son and Rio Harper, that's not information that  
7 you gave to Mr. Crooks, correct?

8 A. That's correct.

9 Q. If there is information in this document about you driving  
10 those three over there to 116th and Western, that's not  
11 information that you gave to Mr. Crooks, is it?

12 A. I didn't give it to him, no.

13 Q. Well, if there is information about -- in this document  
14 about the fact they told you they were going to go do an armed  
15 robbery, they had to shoot the guy, that's not something you  
16 told Mr. Crooks?

17 MS. BIFFL: Objection.

18 BY THE WITNESS:

19 A. I don't recall.

20 THE COURT: Sustained.

21 Don't answer.

22 BY MR. BEUKE:

23 Q. Well, do you recall Mr. Crooks ever asking you, Shadeed,  
24 how have you been treated since you have been here?

25 Did he ask you that?

1 A. I think I was asked that.

2 Q. Well, do you remember him asking you that?

3 A. Yes.

4 Q. Okay. And you told him you had been treated fine, correct?

5 A. That's correct.

6 Q. You had been treated well since you have been in police  
7 custody, correct?

8 A. That's correct.

9 Q. Did Mr. Crooks ask you if you had something to eat while  
10 you were in custody?

11 Yes or no.

12 A. I'm not sure.

13 Q. Well, you told him that you had had something to eat, isn't  
14 that correct?

15 A. I'm not sure.

16 Q. Well, isn't it true, sir, that after you had a conversation  
17 with Mr. Crooks and after you told him everything about your  
18 involvement and everything about your son and Rio's and Carol's  
19 involvement in that armed robbery murder, he left the room?

20 A. It is possible.

21 Q. Well, so you did give him information, didn't you?

22 A. Not my knowledge I didn't.

23 Q. Well, did he leave the room, and then at some point come  
24 back with that two-page document? Yes or no.

25 A. When he came into the room, he had a two-page document with

1 him --

2 Q. Okay. And --

3 A. -- to the best of my knowledge.

4 Q. -- he put it in front of you, didn't he?

5 Right?

6 A. Yes, he showed it to me.

7 Q. Well, I mean, here, take a look at it again, Mr. Mu'min.

8 When he put it in front of you, the handwritten portion was  
9 already written out, correct?

10 A. To the best of my knowledge, yes.

11 Q. Did he tell you, Mr. Mu'min, I want to go over this with  
12 you?

13 A. He could have.

14 Q. Well, did he tell you, you see Miranda warnings in the  
15 middle of the page?

16 A. I'm not sure about that.

17 Q. Well, did he tell you listen, Mr. Mu'min, the rights I gave  
18 you earlier, they are contained on page 1, I want you to read  
19 them again. And if you understand them, put your signature  
20 underneath the paragraph.

21 He told you that, didn't he?

22 A. I'm not sure whether he did or not.

23 Q. Well, whose signature is under the rights?

24 A. They are mine.

25 Q. Oh. Well, did he say to you, Shadeed, I want to read this



1 to you?

2 A. He could have.

3 Q. And he did in fact read it to you, didn't he?

4 A. Yes.

5 Q. Line by line, correct?

6 A. To the best of my knowledge.

7 Q. And line 1 begins, on July 24th, 1985, I was at, and it  
8 goes on from there, correct?

9 A. Correct.

10 Q. Did -- when he read that to you, did he ask you is this  
11 correct as to what you told me, Shadeed?

12 A. I'm not sure of that either.

13 Q. Well, did you ever stop him and say, hey, wait a minute,  
14 Mr. Crooks, I didn't tell you that? Did you ever tell him  
15 that?

16 A. No, I did not. I just told -- I did tell him that I didn't  
17 need to hear the rest of it, but he continued to read it.

18 Q. Isn't it true, sir, Wilbur Crooks read you every sentence  
19 on page 1?

20 Yes or no.

21 A. Yes.

22 Q. And when he got to the bottom of page 1, Mr. Mu'min, isn't  
23 it correct that Wilbur Crooks told you if this is correct, page  
24 1, Shadeed, would you sign on the bottom? Isn't that what he  
25 did?

1 A. I'm not sure.

2 Q. Well, you signed on the bottom, didn't you?

3 A. Yes, I did.

4 Q. And Mr. Crooks signed on the bottom, isn't that right?

5 A. That's right.

6 Q. And so did Detective Paladino, isn't that correct?

7 A. That's correct.

8 Q. And then you went on to page 2. And Mr. Crooks turned the  
9 page, didn't he?

10 A. Yes.

11 Q. And he began to read you page 2, isn't that correct?

12 A. It is possible.

13 Q. And the information that was read to you on page 2, did you  
14 stop him and say, hey, I didn't tell you any of that?

15 A. No, I did not.

16 Q. So it is your testimony that everything on page 2 was  
17 something that Mr. Crooks got from who knows where, right?

18 A. Not sure where it come from.

19 Q. Well, you didn't tell him it according to you, correct?

20 A. To my knowledge I didn't.

21 Q. Okay. And at the bottom of page 2, isn't it correct,  
22 Mr. Mu'min, that he asked you how you have been treated, you  
23 have been treated well since you have been in police custody  
24 and you have had something to eat, correct?

25 MS. BIFFL: Asked and answered, Judge.

1 THE COURT: Yes.

2 MR. BEUKE: I'll withdraw it, Judge.

3 BY MR. BEUKE:

4 Q. After he read you that, he asked you if this is true,  
5 Shadeed, will you sign it? Correct?

6 A. Could have.

7 Q. And you signed it, correct?

8 A. Yes.

9 Q. Because it was true, correct?

10 Yes or no.

11 A. Some of it is true.

12 Q. Everything that's in here is what you did, correct?

13 A. Yes.

14 Q. And it is your testimony that you never told that to  
15 Mr. Crooks, correct?

16 A. To the best of my knowledge I didn't.

17 Q. Well, afterwards you eventually were taken from Area 2,  
18 correct?

19 A. That's correct.

20 Q. And you were taken to the Cook County Jail, correct?

21 A. That's correct.

22 Q. And when you were booked into the Cook County Jail, you  
23 went and were examined by a paramedic, correct?

24 A. To the best of my knowledge, yes.

25 Q. Well, there was a gentleman who asked you a number of

1 questions, correct?

2 A. I don't recall.

3 Q. Well, do you recall on November 1st of 2000 -- I'm sorry --  
4 1985, at the Cook County Jail, being interviewed by a  
5 paramedic?

6 Yes or no.

7 A. I don't recall.

8 Q. Well, do you remember being asked your name?

9 A. I don't recall.

10 Q. Do you remember being asked your Social Security number?

11 A. I don't recall.

12 Q. Your date of birth?

13 A. I don't recall.

14 Q. You were born 4-18-44, correct?

15 A. That's correct.

16 Q. Social Security Number 275-38-3108.

17 MS. BIFFL: Judge?

18 MR. WEISMAN: Judge.

19 MR. BEUKE: Is this a state secret? I don't know.

20 MS. BIFFL: Yes.

21 MR. WEISMAN: Judge, there is rules on this that apply  
22 to everyone. We'd ask that this be removed from the record.

23 THE COURT: Right. I'll strike the --

24 MR. BEUKE: Okay.

25 THE COURT: -- Social Security number.

1 MR. BEUKE: What's the number, Marc?

2 BY MR. BEUKE:

3 Q. Let me show you, Mr. Mu'min, what's been previously marked  
4 as Defendant's Number 52. Ask you to take a look at that  
5 two-page document.

6 Is there a Social Security number that appears on  
7 line 3?

8 Yes or no.

9 A. Yes.

10 Q. Is that your Social Security number?

11 A. Yes, it is.

12 Q. Is there a date of birth that appears on line 3?

13 A. Yes, it is.

14 Q. Is that your date of birth?

15 A. That's correct.

16 Q. Incidentally, Mr. --

17 MS. BIFFL: Object to the relevance, Judge. I'm not  
18 sure where we're going with this document. I'd ask that --

19 MR. BEUKE: It will be clear shortly I think, Judge.

20 THE COURT: Well --

21 BY MR. BEUKE:

22 Q. Do you remember --

23 THE COURT: Overruled.

24 BY MR. BEUKE:

25 Q. -- Mr. Mu'min, being asked a series of questions by that

1 young man who checked you into the jail?

2 A. I don't recall, but I may have been.

3 Q. Okay. Now do you remember, you wore glasses back then,  
4 didn't you?

5 A. Yes.

6 Q. And when you went to the jail, Mr. Mu'min, you had glasses  
7 on your head, correct?

8 A. To the best of my knowledge I did.

9 Q. And you had the glasses with you in Area 2, correct?

10 A. Yes, I did.

11 Q. You were wearing them in the lieutenant's office, correct?

12 A. That's correct.

13 Q. And these three times that this bag was placed over your  
14 head and Mr. Burge put his hand on your face, he never broke  
15 your glasses, did he?

16 A. It wasn't on.

17 Q. Oh. Did he tell you, oh, Shadeed, can you please take your  
18 glasses off so I can put this bag on your head and choke you  
19 out three times?

20 A. No, he did not.

21 Q. You took them off for him --

22 A. They was off --

23 Q. -- according to you, correct?

24 A. They was off before I went into his office.

25 Q. Oh, okay. Where were they?

1 A. I don't know where they was at.

2 Q. Oh. Well, in any event, when you got done being choked out  
3 by this bag, you found your glasses again, right?

4 A. I don't recall.

5 Q. Where did you find them, Mr. Mu'min?

6 A. I don't recall.

7 Q. Oh. When did you put them back on your face, Mr. Mu'min?

8 A. I don't recall.

9 Q. Oh. But you had them when you were sitting in the  
10 interview room in Area 2, didn't you?

11 A. Yes, I did.

12 Q. And you had them when you went to the Cook County Jail,  
13 didn't you?

14 A. Yes, I did.

15 Q. There was not once -- one mark on them. They weren't  
16 bent. Nothing was wrong with them, were they, Mr. Mu'min?

17 A. Because they wasn't on me when he put the bag on me.

18 Q. Oh, okay. Well, do you remember that gentleman asking you  
19 about any complaints that you had or how you were feeling? Do  
20 you remember him asking you that?

21 A. I don't --

22 Q. Yes or no.

23 A. -- really recall that, sir.

24 Q. Well, do you remember telling him you were in good health?

25 MS. BIFFL: Objection to him reading from the

1 Document.

2 THE COURT: Sustained.

3 BY MR. BEUKE:

4 Q. Do you remember telling him you were in good health?

5 MS. BIFFL: Objection.

6 BY THE WITNESS:

7 A. I don't recall.

8 MS. BIFFL: It calls for hearsay.

9 THE COURT: Sustained.

10 MR. BEUKE: Well, if I read from the document it is  
11 okay, Judge?

12 BY MR. BEUKE:

13 Q. Here. Mr. Mu'min, isn't it correct that when that  
14 gentleman was examining you and when he was visually looking at  
15 your body, you didn't stick your wrists out to him and say,  
16 hey, listen, I just had my wrists handcuffed for approximately  
17 two hours and they swelled up? You never made a complaint  
18 about that, did you?

19 A. No, I did not.

20 MS. BIFFL: Object to the form of the question, the  
21 foundation as to timing, and to the fact that this witness has  
22 said repeatedly I don't remember the exam.

23 MR. BEUKE: He didn't say that, Judge.

24 THE COURT: I thought he didn't remember the  
25 conversation. But you can clarify.



1 MS. BIFFL: I would ask him to clarify the date of the  
2 exam in relation to the date of being at Area 2.

3 MR. BEUKE: I'll be happy to, Judge.

4 THE COURT: All right.

5 BY MR. BEUKE:

6 Q. You were at Cook County Hospital, weren't you, Mr. Mu'min,  
7 on November 1st of 1985, isn't that correct?

8 A. To the best of my knowledge.

9 Q. Well, and when you were at Cook County -- or I'm sorry --  
10 at Cermak Health Services and you were being examined, you were  
11 told that this examination was for the purposes of checking you  
12 into the jail, is that fair to say?

13 A. That's fair.

14 Q. Okay. And they asked you all of these questions about your  
15 prior history, correct?

16 If you have had any diseases or anything like that,  
17 correct?

18 A. Correct.

19 Q. Okay. And they visually -- the paramedic actually looked  
20 at all of your parts of your body, fair to say?

21 A. That's fair to say.

22 Q. Okay. And they asked you if you had any complaints,  
23 correct?

24 A. To the best of my knowledge.

25 Q. And you told him you were in good health, is that correct?

1 A. I'm not sure what I said.

2 Q. Okay. Well, in any event, sir, you never told that  
3 individual paramedic at Cook County -- or at Cermak Health  
4 Services that your wrists were hurting you, that you had been  
5 handcuffed in such a way that it cut off the circulation to  
6 your hands, correct?

7 A. That's correct.

8 Q. Okay. You never made any complaint about that, correct?

9 A. That's correct.

10 Q. You never told that paramedic, you know what, I have been  
11 tortured while I was in police custody, isn't that correct?

12 A. That's correct.

13 Q. And Mr. Burge wasn't present when you were being examined,  
14 was he?

15 A. That's correct.

16 Q. You were alone with a doctor, correct?

17 A. That's correct.

18 Q. Okay. Now the next day, Mr. Mu'min -- or I'm sorry --  
19 later that day you went in front of a judge, correct?

20 A. I'm not sure when it was I went.

21 Q. Well, do you recall appearing in front of a judge for the  
22 purposes of them setting a bond on your case?

23 A. Yes.

24 Q. Okay. In front of that judge you had a lawyer represent  
25 you from the Public Defender's Office, isn't that right?

1 A. I'm not sure where he was from.

2 Q. Well, you had a lawyer with you, correct?

3 A. I'm not sure.

4 Q. Well, they set your bond, the judge set your bond at  
5 \$30,000, which required you to post \$3000, isn't that right?

6 A. I'm not sure what it was.

7 Q. Well, nothing was said to the judge, and you didn't saying  
8 to that lawyer about the fact that you had been -- had your  
9 hands cuffed in such a way that your wrists were all swollen  
10 and bruised, isn't that correct?

11 A. That's correct.

12 Q. You never said anything to that lawyer about the fact that  
13 you had a bag put over your head three times and you had been  
14 choked out and passed out, correct?

15 A. That's correct.

16 Q. And you never told that lawyer anything about the fact that  
17 Mr. Burge put a gun to your head and clicked it three times  
18 with a round in the chamber, did you?

19 A. No, I did not.

20 Q. Well, sir, eventually you did make bond on November 12th,  
21 didn't you?

22 A. I think that's correct.

23 Q. Okay. And you posted or somebody posted money for you,  
24 correct?

25 A. Yes.

1 Q. And you were out on the street, isn't that right?

2 A. Yes.

3 Q. And at some point you retained an attorney by the name of  
4 Dennis Doherty and Julius Echeles, correct?

5 A. That's correct.

6 Q. And, sir, am I correct that after you bonded out, your car  
7 was still impounded, was it not?

8 A. That's correct.

9 Q. And the police had custody of your car. That's what you  
10 believed, correct?

11 A. That's what I believed.

12 Q. And you had some property in the car that you actually  
13 requested to get -- or you wanted back, fair to say?

14 A. Fair to say.

15 Q. Tell the ladies and gentlemen of the jury who Shadeed  
16 Mu'min called on the telephone. Tell them.

17 A. I don't recall.

18 Q. Well, isn't it a fact, sir, that you called Mr. Burge after  
19 you got out on bond?

20 A. I don't recall when it was. I called him. I don't recall  
21 when it was.

22 Q. I mean, you called him on the phone and you said, hey,  
23 lieutenant, it is me, Shadeed, I made bond, I need some help  
24 getting my car back, didn't you?

25 A. I could have.

1 Q. That's why you contacted him, correct?

2 A. That's the only reason I contacted him.

3 Q. And he told you, didn't he, that he was going to try to  
4 help you get your car back, isn't that right?

5 A. That's true.

6 Q. And he did help you get your car back, didn't he?

7 A. No, he did not.

8 Q. Well, did tell you that Detective Paladino would call you?

9 A. I'm not sure.

10 Q. Well, Paladino and you spoke, didn't they?

11 A. I don't recall.

12 Q. Didn't you?

13 A. I don't recall.

14 Q. Well, you got your car back, didn't you?

15 A. No, I did not.

16 Q. Well, did you get personal property out of the car that you  
17 wanted back?

18 A. I don't recall that either.

19 Q. Well, did you get purses out of the car that you had in the  
20 car?

21 A. I don't recall that either.

22 Q. Well, how many times -- you reached out to Lieutenant Burge  
23 on more than one occasion, didn't you?

24 A. It is possible.

25 Q. Yeah. I mean, and ultimately you and him spoke several

1 times, didn't you, on the phone?

2 A. I spoke with him.

3 Q. Okay. Now, Mr. Mu'min, after Mr. Echeles and Mr. Doherty  
4 began to represent you, you went to court for, on occasion,  
5 maybe once every month, is that correct?

6 A. Sound correct.

7 Q. And you appeared both with Mr. Echeles and with  
8 Mr. Doherty, correct?

9 A. It sound correct.

10 Q. And, sir, at that point in time while you were on bond for  
11 this case, you knew about the armed robbery up in Milwaukee,  
12 didn't you?

13 A. Yes.

14 Q. And when you went to court on this case, you never told  
15 Mr. Doherty that, hey, somebody may be looking for me and my  
16 son and Rio Harper on an armed robbery out in Milwaukee?

17 MS. BIFFL: Objection to questions about the  
18 conversations with his lawyer.

19 MR. BEUKE: Oh. Judge, I'll move on.

20 THE COURT: All right.

21 BY MR. BEUKE:

22 Q. Sir, I want to direct your attention to February 11th of  
23 1986. That's approximately four months after you bonded out of  
24 the Cook County Jail. Do you remember going to court out in  
25 Markham on that day?

1 A. Yes.

2 Q. Do you remember getting arrested from court on that day?

3 A. Yes.

4 Q. And you got arrested on the warrant that was outstanding  
5 from Milwaukee, Wisconsin, isn't that correct?

6 A. That's correct.

7 Q. Now Shadeed Mu'min was back in the county jail, isn't that  
8 correct?

9 A. That's correct.

10 Q. In 1986, correct?

11 A. That's correct.

12 Q. Assigned to Division 1, isn't that correct?

13 A. That's correct.

14 Q. With the Wilson brothers, correct?

15 A. I'm not sure where they was at.

16 Q. With Melvin Jones, isn't that correct?

17 A. I'm not sure.

18 Q. With Aaron Patterson, isn't that correct?

19 A. I don't recall that.

20 Q. Ricky Shaw?

21 A. I don't recall that.

22 Q. Well, where were you housed on Division 1?

23 A. I was in Division 1, but I don't recall those names you  
24 just mentioned to me.

25 Q. Well, up until that point -- well, on the February 11th

1 court date, do you recall coming to court with your lawyer  
2 prior to being arrested and the State's Attorneys tendering  
3 your lawyer a copy of that two-page statement that you  
4 allegedly gave in Area 2?

5 Do you remember getting that document?

6 A. I don't recall.

7 Q. Well, sir, while you were in custody from February 11th of  
8 1986, you and your lawyer met on a number of occasions, isn't  
9 that right?

10 A. That's correct.

11 Q. Isn't it true, sir, that it took approximately 12 months  
12 for you to first tell your lawyer that something had been done  
13 to you to cause you to give that statement?

14 A. It is possible.

15 Q. Okay. And after Mr. Doherty came to you and showed you the  
16 statement, you didn't tell him, hey, Burge put a gun to my  
17 head, did you, right?

18 A. Right.

19 Q. And you didn't tell him Burge put a bag over my head and  
20 choked me out three times, did you?

21 A. No, I did not.

22 Q. You sat in Division 1 for 14 months before you ever thought  
23 it was a good idea to mention this to your what lawyer, isn't  
24 that correct?

25 A. That's correct.



1 Q. Okay. And when you mentioned that for the first time to  
2 Mr. Doherty, you discussed with him about the possibility of a  
3 motion to suppress, correct?

4 A. To the best of my knowledge.

5 Q. You didn't tell Mr. Doherty at that point in time that it  
6 was Lieutenant Burge that had done anything to you, did you?

7 A. No, I did not.

8 Q. And you didn't tell Mr. Doherty at that time that there was  
9 an associate of Mr. Burge's that was standing outside the  
10 doorway, correct?

11 A. No, I did not.

12 Q. Well, you sat in Division 1 for another 14 months, didn't  
13 you?

14 A. To the best of my knowledge I don't know how long it was.

15 Q. Well, you sat with -- in Division 1 with a number of  
16 different individuals, correct?

17 A. It is possible.

18 Q. All right. Well, did you begin to discuss your case with  
19 people in Division 1?

20 MS. BIFFL: Objection to the form of the question,  
21 case being. The incident or the Area 2?

22 THE COURT: Clarify.

23 BY MR. BEUKE:

24 Q. Well, when you had your conversations with your roomies at  
25 Division 1, was it about your case, the substance of the

1 prosecution of your case?

2           You guys talked about each other's cases, didn't you?

3 A. It is possible that I may have mentioned it.

4 Q. Okay. Is it possible that you may have mentioned the fact  
5 that, hey, I got on my case a handwritten confession that I  
6 signed that they are going to use against me? Is it possible  
7 you said that --

8 A. No.

9 Q. -- to your roomies over there?

10 A. No.

11 Q. Oh. You never talked about that, correct?

12 A. No.

13 Q. Well, you never told them that your case came out of Area  
14 2, did you?

15 A. I don't recall.

16 Q. Well, is it possible you told them, hey, I got an Area 2  
17 case?

18 A. I don't recall.

19 Q. Well, is it possible that somebody told you, you know,  
20 listen, you should claim that Burge put a bag over your head or  
21 Burge put a gun to your head? Is it possible somebody told you  
22 that might be a good idea?

23 A. No.

24 Q. Oh. Well, on May 13th of 1987, you and Mr. Doherty came  
25 back to court, didn't you?

1 Yes or no.

2 A. Yes.

3 Q. And for the very first time you told Mr. Doherty that it  
4 was Burge who put a gun to your head, isn't that right?

5 A. It is possible.

6 Q. And for the very first time you told Mr. Doherty that it  
7 was Burge who put a bag over your head, isn't that right?

8 A. It is possible.

9 Q. Now, sir, over the years you have told the ladies and  
10 gentlemen that you have had an opportunity to give information  
11 on this particular investigation to people and give testimony  
12 on several occasions, isn't that right?

13 A. True.

14 Q. Now the -- you had some people from the People's Law Office  
15 come out to see you in Centralia, isn't that right?

16 A. That's true.

17 Q. They had a video camera with them, didn't they?

18 A. That's true.

19 Q. And they set up a video camera so they could take a  
20 videotaped statement of you, isn't that true?

21 A. That's true.

22 Q. And there was a young lady and an attorney by the name of  
23 Mr. Haas, isn't that right?

24 A. I'm not sure what her name was.

25 Q. Okay. Was there two attorneys that were there?

1 A. I'm not sure.

2 Q. Video camera was set up, correct?

3 A. That's correct.

4 Q. And when they set up the video camera, they turned it on,  
5 correct?

6 A. That's true.

7 Q. Right? Mr. Mu'min, tell us what happened to you in Area  
8 2. Do you remember that being asked of you?

9 A. It is possible.

10 Q. Well, you have seen that video, haven't you?

11 A. I think I have seen part of it, not the whole video.

12 Q. Do you remember that you -- describing the person who did  
13 this to you as Commander Burtner?

14 A. I don't recall that.

15 Q. Well, do you remember on two or three different occasions  
16 referring to this guy who tortured you as Commander Burtner?  
17 Yes or no.

18 A. I don't recall that either.

19 Q. Do you remember the young lady then stopping you and  
20 saying, are you referring to Commander Burge?

21 A. I don't recall that either, sir.

22 Q. Okay. Well, in any event do you remember telling those  
23 people in that video interview that after you had been treated  
24 in this manner, that Burge went out and Burge got a statement  
25 and brought it back in for you to sign? Do you remember saying

1 that?

2 A. I don't recall that, sir.

3 Q. Okay. Well, sir, you have given information to the FBI  
4 back in 1990. Do you remember that conversation also at  
5 Centralia?

6 A. No.

7 Q. Well, do you remember when your lawyers were sitting next  
8 to you, Mr. Gump and Mr. Lemming? We have talked about that  
9 before, haven't we?

10 A. It is possible.

11 Q. Well, do you remember telling FBI Agent Jackie Kase that  
12 there was a black detective who was present for all of this  
13 also?

14 A. I could have.

15 Q. Well, you have never testified at your motion to suppress  
16 about the presence of a black detective during all this  
17 mistreatment, had you?

18 A. No, I did not.

19 Q. Well, that was the very first time that you had ever  
20 mentioned a black detective being present when you were being  
21 tortured, isn't that right?

22 Correct?

23 A. That's correct.

24 Q. All right. And you even gave a description of the black  
25 detective, didn't you?

1 A. I don't recall.

2 Q. Well, do you recall saying that the black detective could  
3 see and hear everything. He did nothing to stop it. He was  
4 laughing, as was the white detective.

5 Do you remember telling those -- FBI agent Jackie  
6 Kase that?

7 A. That very well could be, sir.

8 Q. You didn't see a black detective there, did you?

9 A. When I first went into the room, there was an adjoining  
10 room, and there was someone who I assume was a detective, but  
11 he was part of the police unit.

12 Q. There was a black detective who was standing -- seated at a  
13 desk outside the door?

14 A. Not outside the door, he was in his own office.

15 Q. Well, it was in the office outside of Mr. Burge's office?

16 A. Down from it in the unit up there.

17 Q. Five or ten feet from where you were sitting in the chair,  
18 right?

19 A. I have no knowledge how far, but he could see.

20 Q. How far away from you was he?

21 A. I have no knowledge of that.

22 Q. Farther than I am from you?

23 MS. BIFFL: Objection, asked and answered.

24 THE COURT: Sustained.

25 BY MR. BEUKE:

1 Q. Well, you told FBI Agent Jackie Kase, didn't you, that he  
2 could see and hear everything, isn't that right?

3 A. That's true.

4 Q. He was sitting there laughing at everything that was being  
5 done to you, isn't that right?

6 A. That's true.

7 Q. And that's the very first time you had ever mentioned the  
8 black detective, isn't that right?

9 A. That's true.

10 Q. You never gave FBI Agent Kase a description of the  
11 associate, did you?

12 A. No, I did not.

13 Q. Now, sir, after you gave this statement to FBI Agent Kase  
14 and your lawyers, did you -- well, some time later you were  
15 asked to give a statement to the Office of Professional  
16 Standards in 1993, isn't that right?

17 A. I don't recall when it was.

18 Q. Well, how about if I direct your attention to June 7, 1993,  
19 9:45 in the morning, being taken -- being interviewed by  
20 Investigator Leti Lawrence up at the Milwaukee parole office on  
21 Walnut Street in Milwaukee, Wisconsin.

22 Do you remember that?

23 Yes or no.

24 A. I don't recall.

25 Q. Well, sir, do you remember telling Investigator Lawrence

1 that there was a black detective involved in this torture  
2 again?

3 A. I don't recall that.

4 Q. Do you remember the conversation coming up about a black  
5 detective?

6 A. I don't recall that, sir.

7 Q. Do you remember, sir, being asked this question and giving  
8 this answer?

9 "Question: What did you do when Burge put the  
10 typewriter cover over your head?

11 "Answer: I hollered each time. There was an office  
12 across a small hallway from Burge's office, and there was a  
13 black detective who was seated in the office. The door to  
14 Burge's office was open, and the black detective's door was  
15 also open. He saw what was going on. This detective appeared  
16 to be in his 30s and was dark skinned."

17 Do you remember telling that to Investigator  
18 Lawrence?

19 A. It is possible I may have said that, I don't recall.

20 Q. Well, after you had your conversation with Ms. Lawrence,  
21 isn't it a fact that she typed up the questions and answers  
22 that she asked of you, isn't that correct?

23 A. I'm not sure of that, sir.

24 Q. Well, you eventually were given a copy of that statement,  
25 weren't you?



1 A. I'm not sure of that either.

2 Q. I'm going to show you Defendant's Number 53, Mr. Mu'min.

3 I'm going ask you to take a look at this document.

4 Tell the ladies and gentlemen of the jury if you  
5 recognize it, and if you do, what you recognize it to be.

6 Do you recognize it, sir?

7 A. It look familiar.

8 Q. Well, you have seen it before, haven't you?

9 A. It is possible I have.

10 Q. Take a look at the -- page 3.

11 I'm sorry. Page 4. Do you see that?

12 A. Yeah.

13 Q. Did you remember being asked this question and giving this  
14 answer?

15 "Question: Is there anything that you wish to add to  
16 this statement?

17 "Answer:"

18 MS. BIFFL: Objection, your Honor. Irrelevant and not  
19 impeaching.

20 MR. BEUKE: Oh, okay. Well, I'll withdraw it, Judge.

21 BY MR. BEUKE:

22 Q. Mr. Mu'min, at your motion to suppress statements you were  
23 asked a lot of questions by your lawyer and a lot of questions  
24 by the prosecutor, correct?

25 A. Yes.

1 Q. You never testified at the motion to suppress statements  
2 that Mr. Burge appeared to be drunk during the course of time  
3 that you spent with him, did you?

4 A. I don't recall.

5 Q. You never told anybody prior to being interviewed by the  
6 Office of Professional Standards that Mr. Burge appeared to be  
7 drunk during your encounter with him on October 30th?

8 MS. BIFFL: Your Honor, objection again to relevance.

9 And impeaching he hasn't testified to anything today.

10 THE COURT: Right, it is not impeaching. Sustained.

11 BY MR. BEUKE:

12 Q. Well, sir, that's an accurate account of the questions that  
13 were asked of you and the answers that you gave on that day,  
14 isn't that correct?

15 A. It is possible.

16 Q. Sir, do you recall approximately three weeks after that  
17 interview that you had out at the Milwaukee parole office with  
18 Ms. Lawrence her calling you on the phone?

19 A. I don't recall it.

20 Q. Well, you remember her calling you on the phone, sir, and  
21 saying, Mr. Mu'min, I would like to come up -- back up to  
22 Wisconsin, and I'd like to show you some photographs of  
23 detectives from Area 2? Do you remember her asking you about  
24 that?

25 A. No.

1 Q. Well, sir, isn't it correct that you told Ms. Lawrence, I  
2 don't want to look at any photographs, I just want to get on  
3 with my life, isn't that correct?

4 A. That's very possible I did -- I did say that.

5 Q. That was after you sat down and gave this big interview to  
6 her, isn't that right?

7 A. I don't recall.

8 Q. So when she called you and said, listen, Shadeed, can you  
9 look at some photos and see if you can identify the associate  
10 or the black detective, it was Shadeed Mu'min who said, no, I  
11 don't want to look at anything, right?

12 A. That's true.

13 Q. You made that decision, correct?

14 A. That's correct.

15 Q. You never even identified Commander Burtner, did you?

16 A. I wasn't asked.

17 Q. Oh. Well, you decided I'm not going look at any  
18 photographs, correct?

19 A. Yes, I did.

20 Q. Okay. And Ms. Biffel or Ms. Perry or Mr. Weisman in all the  
21 times that you have sat down with them, did they ever say,  
22 listen, Shadeed, I would like to show you a photograph of a  
23 detective from Area 2 so you could tell me whether or not this  
24 is the guy who was standing in the doorway? Did they ever do  
25 that?

1 A. I don't recall that, sir.

2 Q. Well, you have talked to them five or six times in the last  
3 couple weeks, haven't you?

4 A. That wasn't mentioned to me.

5 Q. Well, they never asked you to do that, did they?

6 A. No, they did not.

7 Q. Oh.

8 THE COURT: Okay. All right. It is time to break.

9 We'll resume at 1:15.

10 (Proceedings had in open court outside of the presence and  
11 hearing of the jury:)

12 THE COURT: You may step down, sir.

13 THE WITNESS: Okay.

14 (Witness temporarily excused.)

15 THE COURT: Thank you.

16 (Adjournment at 12:00 P.M. to reconvene at 1:15 P.M., June  
17 15, 2010.)

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IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

UNITED STATES OF AMERICA, )  
 )  
Plaintiff, )  
 )  
vs. ) No. 08 CR 846  
 )  
JON BURGE, ) Chicago, Illinois  
 ) June 15, 2010  
Defendant. ) 1:25 P.M.

VOLUME 10B  
TRANSCRIPT OF PROCEEDINGS - Trial  
BEFORE THE HONORABLE JOAN HUMPHREY LEFKOW, and a jury

APPEARANCES:

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MS. APRIL PERRY

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1 (Proceedings had in open court outside of the presence and  
2 hearing of the jury:)

3 THE COURT: Bring in the jury, please.

4 (Proceedings had in open court in the presence and hearing  
5 of the jury:)

6 THE COURT: Mr. Beuke, you may continue.

7 Good afternoon, ladies and gentlemen.

8 MR. BEUKE: Judge, I don't have any other questions,  
9 your Honor.

10 THE COURT: You don't?

11 MR. BEUKE: No.

12 THE COURT: All right.

13 MS. BIFFL: I do have a few redirect.

14 THE COURT: Okay.

15 SHADEED MU'MIN, GOVERNMENT'S WITNESS, PREVIOUSLY SWORN

16 REDIRECT EXAMINATION

17 BY MS. BIFFL:

18 Q. Mr. Mu'min, there is just a few things I want to go over  
19 with you before you finish. First of all, when you were being  
20 cross examined, you were asked about how many times we have met  
21 in preparation for your testimony. Do you remember those  
22 questions?

23 A. Yes.

24 Q. Do you remember the first time that we met what state that  
25 was in?

1 A. Yes.

2 Q. And where was it?

3 A. In Ohio.

4 Q. Okay. And was that in 2008?

5 MR. BEUKE: Sorry, Judge, I didn't hear the answer.

6 THE COURT: The answer? I think he said Ohio.

7 Right?

8 MR. BEUKE: Thank you, Judge.

9 BY MS. BIFFL:

10 Q. Was that in 2008?

11 A. To the best of my knowledge I think it was.

12 Q. And then this year -- and that was Agent Kelly and I came  
13 to see you in Ohio, right?

14 A. That's correct.

15 Q. Okay. And in April of this year Ms. Perry and Agent Kelly  
16 and I came to see you in Ohio, is that right?

17 A. That's correct.

18 Q. And from 2008 to April of this year, had we been to see you  
19 any other time?

20 A. No.

21 Q. Okay. Then between April when we came out to see you and  
22 two days ago, Sunday, had I seen you at all during that time?

23 A. Repeat the question.

24 Q. Okay. I went to see you in April, right, in Ohio?

25 A. Yes.



1 Q. Okay. And then when did you come to Chicago for trial?  
2 What day did you get here?

3 A. Sunday.

4 Q. All right. As in two days ago, correct?

5 A. Two days ago.

6 Q. Had we seen each other any other time between my trip to  
7 Ohio in April and Sunday?

8 A. No.

9 Q. Okay. And Agent Kelly and Agent Butler and I met with you  
10 on Sunday in this building, is that right?

11 A. That's correct.

12 Q. All right. And then yesterday do you remember what time  
13 you came to the courthouse?

14 A. It may have been around 2:00 o'clock, 1:30, 2:00 o'clock.

15 Q. And then what time did you leave when you found out you  
16 wouldn't testify yesterday?

17 A. That's around 4:30, 5:00 o'clock, somewhere.

18 Q. All right. And then today what time did you arrive at the  
19 courthouse?

20 A. About 9:00 o'clock or after.

21 Q. All right. And about 9:15 is when you got up there, right?

22 A. Yes.

23 Q. Now you were asked some questions about calling -- about  
24 trying to get your car back after your arrest in October of  
25 1985.

1 Do you remember those questions?

2 A. Yes.

3 Q. Okay. And you were asked why you called the defendant,  
4 Lieutenant Burge, about your car. Can you tell us why you  
5 called him of all people?

6 A. He had informed me that if I cooperated with him, he would  
7 get my car back.

8 Q. All right. And when you called him about getting your car,  
9 did he ask you any questions?

10 A. Yeah, had I found out where the other defendants were.

11 Q. All right. Your son and his friend?

12 A. Yes.

13 Q. And what did you tell him?

14 A. No.

15 Q. And so did you get your car back?

16 A. No.

17 Q. Okay. Why didn't you get your car back?

18 A. They wouldn't let me have it.

19 Q. I'm sorry?

20 A. They wouldn't let me have it.

21 Q. Okay. And when you say they, who do you mean?

22 A. I think it was impound by the police, I'm sure.

23 Q. Okay. Did you go to anybody besides Lieutenant Burge to  
24 try to get your car?

25 A. I don't recall if I did or not.

1 Q. Now you were asked about this interview of you by the  
2 People's Law Office when you were in prison.

3 Do you remember those questions?

4 A. Yes.

5 Q. Okay. You were asked about getting the defendant,  
6 Lieutenant Burge's name wrong. Do you remember those  
7 questions?

8 A. Yes.

9 Q. Okay. That interview was after the defendant no longer  
10 worked at the Chicago Police Department, is that right?

11 MR. BEUKE: Objection, Judge.

12 BY THE WITNESS:

13 A. To the best of my knowledge --

14 THE COURT: Wait, wait. Don't answer.

15 THE WITNESS: Oh.

16 THE COURT: What's your objection?

17 MR. BEUKE: Well, if he can establish a foundation as  
18 to when that occurred.

19 THE COURT: I don't know if it is in the evidence or  
20 not. But if not, lay the foundation.

21 MS. BIFFL: Okay.

22 BY MS. BIFFL:

23 Q. Mr. Mu'min, do you remember prior to those people coming to  
24 prison to interview you, had you testified in an administrative  
25 hearing in this building about what happened to you at Area 2?

1 A. I don't recall.

2 Q. Okay. Do you know what year it was that they came to  
3 interview you?

4 A. No.

5 Q. Do you remember, was it after your motion to suppress?

6 A. Yes.

7 Q. All right. And in your motion to suppress did you name  
8 Lieutenant Burge?

9 MR. BEUKE: Objection, Judge.

10 THE COURT: Overruled.

11 BY MS. BIFFL:

12 Q. You can go ahead.

13 A. To the best of my knowledge.

14 Q. Okay. And prior to your motion to suppress to that  
15 hearing, had you told your attorney Lieutenant Burge's name?

16 A. There's a great possibility I could have.

17 Q. Okay.

18 A. I don't recall that, but --

19 Q. Okay. Did you tell him who had done the things to you that  
20 you said happened at Area 2?

21 MR. BEUKE: Objection, Judge, asked and answered.

22 MS. BIFFL: It is a different question.

23 THE COURT: Overruled.

24 BY THE WITNESS:

25 A. Yes.

1 BY MS. BIFFL:

2 Q. Now did you -- you testified during cross examination about  
3 a black detective who you saw on your way to Lieutenant Burge's  
4 office.

5 Do you remember those questions?

6 A. Yes.

7 Q. Okay. You have also mentioned during your testimony an  
8 associate who stood in the doorway. Do you remember that?

9 A. Yes.

10 Q. Are those two different people that you are talking about?

11 A. They are two different people.

12 Q. Okay. Now finally you were asked about in 1993 when you  
13 spoke with someone from OPS.

14 Do you remember those questions?

15 A. Yes.

16 Q. And Mr. Beuke asked you if you remembered telling OPS about  
17 this black detective.

18 Do you remember those questions?

19 A. Yes.

20 Q. All right. And then Mr. Beuke asked you about whether OPS  
21 later contacted you and wanted to meet with you again to show  
22 you some photos. Do you remember that?

23 A. Yes.

24 Q. And did you -- what did you tell OPS when they asked you to  
25 look at photos?

1 A. To the best of my knowledge -- I don't remember what I  
2 informed them. I could possibly have told them I didn't want  
3 no photo. I want to be through with this.

4 Q. Okay. And why did you want to be through with it?

5 MR. BEUKE: Objection, Judge.

6 BY THE WITNESS:

7 A. At that time --

8 THE COURT: Overruled.

9 BY MS. BIFFL:

10 Q. Go ahead.

11 A. At that time I was already incarcerated, and I feel what  
12 was behind me, behind me. A lot of things occurred -- certain  
13 incident occurred -- occurred in my life I didn't want to  
14 remember. And that's what's happening in some aspect that I  
15 didn't want to remember that horror -- torment I had been  
16 subjected to.

17 Q. And you were subpoenaed to come here, is that right?

18 A. That's correct.

19 MS. BIFFL: I don't have anything further.

20 RECROSS EXAMINATION

21 BY MR. BEUKE:

22 Q. Well, Mr. Mu'min, on June the 7th of 1993, the investigator  
23 from OPS came out to the parole office in Milwaukee and asked  
24 to speak with you, correct?

25 Yes or no.

1 A. I don't recall that.

2 Q. Well, you identified the statement that I showed you a  
3 little earlier, correct?

4 A. That's correct.

5 Q. And there was an OPS investigator that came up to  
6 Milwaukee, Wisconsin, and asked you about your involvement  
7 after your arrest in '85, correct?

8 A. It is a possibility it could have happened. I don't  
9 remember.

10 Q. Well, it did happen, did it?

11 You gave a five-page statement.

12 A. Yes, it happened.

13 Q. Okay. And three weeks later after you sat down with that  
14 young lady and after you gave her a five-page statement, she  
15 called you up and she said, Mr. Mu'min, I'd like you to look at  
16 some photographs, isn't that right?

17 A. Yes.

18 Q. And she said I'll drive up to see you, Mr. Mu'min, and show  
19 you the photograph.

20 MS. BIFFL: I object to Mr. Beuke reenacting this  
21 conversation. As far as I know he wasn't there. I'm not sure  
22 how he knows what she said.

23 MR. BEUKE: It is a question, Judge.

24 MS. BIFFL: It is a question in the form of a --

25 MR. BEUKE: Certainly with the good --

1 THE COURT: All right. It is the same issue as  
2 before. But try your question again.

3 BY MR. BEUKE:

4 Q. Well, Ms. Biffel asked you, did you get a call about viewing  
5 some photographs. Do you remember her question?

6 A. Yes, I do.

7 Q. And you did get a call from that investigator asking you to  
8 look at some photographs, isn't that correct?

9 A. Yes.

10 Q. And you told the investigator you didn't want to look at  
11 any photographs, correct?

12 A. That's correct.

13 Q. And Ms. Biffel asked you, well, you have been subpoenaed to  
14 testify here, isn't that right?

15 A. That's correct.

16 Q. And Ms. Biffel came out to see you in 2008, isn't that  
17 correct?

18 A. That's correct.

19 Q. You didn't tell her you didn't want to talk to her, did  
20 you?

21 A. No, I did not.

22 Q. You talked to her, correct?

23 A. That's correct.

24 Q. Did she show you any photographs in 2008?

25 A. Not to my knowledge.



1 Q. How about when you came here -- or when she came out the  
2 second time?

3 MS. BIFFL: Objection, your Honor.

4 BY MR. BEUKE:

5 Q. This year.

6 MS. BIFFL: Relevance and hearsay.

7 MR. BEUKE: I --

8 THE COURT: Well, we don't have a question yet, but --

9 BY MR. BEUKE:

10 Q. Well, Mr. Mu'min, she came out with Mr. -- with Ms. Perry  
11 in 2010 -- was it 2010 to Ohio to see you?

12 A. Yes.

13 Q. Is that right?

14 A. Yes.

15 Q. And you didn't tell her you didn't want to speak to her,  
16 did you?

17 A. No, I did not.

18 Q. You spoke with her, right?

19 A. Yes.

20 Q. Did she show you any pictures on that day?

21 A. Not to my knowledge.

22 Q. How about when you came in from Ohio and met with them on  
23 Sunday? You didn't tell them, hey, I don't want to have  
24 anything to do with this, did you?

25 A. No, I did not.

1 Q. You were here and agreed to testify, correct?

2 A. That's correct.

3 Q. Did they show you any pictures on Sunday?

4 A. No, they did not.

5 Q. How about yesterday?

6 A. No.

7 MR. BEUKE: Nothing else, Judge.

8 MS. BIFFL: Nothing further, your Honor.

9 THE COURT: All right then, Mr. Mu'min, you're  
10 finished. Thank you for your testimony. You're excused.

11 THE WITNESS: Thank you, your Honor.

12 (Witness excused.)

13 MS. BIFFL: The government calls Special Agent Peter  
14 Cullen.

15 (Witness sworn.)

16 PETER B. CULLEN, GOVERNMENT'S WITNESS, DULY SWORN

17 DIRECT EXAMINATION

18 BY MS. BIFFL:

19 Q. Good afternoon. Would you state your name, please?

20 A. My name is Peter, middle initial B., last name Cullen,  
21 C-u-l-l-e-n.

22 Q. How are you employed?

23 A. I'm a special agent of the FBI.

24 Q. How long have you been with the FBI?

25 A. Thirty-two years.

1 Q. Now what year did you go through the academy?

2 A. 1978.

3 Q. Okay. And from there can you tell us how you progressed  
4 through the FBI? What your assignments were?

5 A. Sure. I spent the first 25 years investigating white  
6 collar crime, economic crimes.

7 And after I finished doing that, I became a  
8 supervisor supervising public corruption in Chicago for five  
9 and a half years.

10 And then I became an acting ASAC, special agent in  
11 charge, for a year.

12 And now I'm a special assistant to the special agent  
13 in charge in Chicago.

14 Q. Do you have an impending retirement date?

15 A. Two weeks.

16 (Laughter.)

17 BY MS. BIFFL:

18 Q. We just got you.

19 As a special agent with the FBI, do you carry a  
20 firearm?

21 A. I do.

22 Q. And when you started with the FBI, what was the standard  
23 issue back in 1978?

24 A. The standard issue was a revolver.

25 Q. What model?

1 A. It was Model 10 dash 8.

2 Q. And, I'm sorry, what make?

3 A. A Smith & Wesson.

4 Q. Were you trained in the academy using a revolver?

5 A. Yes.

6 Q. And is part of -- how long was the academy at the time that  
7 you went through it?

8 A. Approximately four months.

9 Q. And can you describe for us the type of firearm training  
10 that you got in the academy?

11 A. Sure. We would shoot our revolvers every day, usually in  
12 the morning. And I think by the time we graduated, we shot  
13 maybe three or four thousand rounds through that weapon.

14 Q. Now did you have, in your time with the FBI, have you had  
15 any specialized duties that required additional firearm  
16 training?

17 A. I did.

18 Q. What was that?

19 A. I joined the Special Weapons and Tactics team here in  
20 Chicago in 1980.

21 Q. All right. And that's commonly known as SWAT, is that  
22 right?

23 A. The SWAT team.

24 Q. How long were you on the SWAT team?

25 A. Thirteen years.

1 Q. How often were you required to go to the firing range as  
2 part of SWAT?

3 A. Every month.

4 Q. Now when you started with SWAT, what type of weapon were  
5 you using?

6 A. Primary weapon was your firearm, was your revolver.

7 Q. Okay. So still the Smith & Wesson revolver?

8 A. Yes.

9 Q. I want to ask you a little bit about safety training with  
10 firearms. What are -- are there some sort of cardinal rules  
11 with firearms that you learned in the academy and also in your  
12 SWAT training?

13 A. Yeah.

14 Q. Concerning safety.

15 A. Sure. The safety rules would be, you never take the weapon  
16 out of your holster unless you plan to use it. If you take it  
17 out of your holster prior to an arrest, you would always have  
18 it in a safe position, usually in a ready down position so the  
19 barrel is facing down. But that would be just prior to an  
20 arrest.

21 And, of course, never point the weapon at anybody  
22 ever any time whether it is unloaded or unloaded, just never do  
23 that.

24 Q. And if you do do it, your intention would be what?

25 A. If you pointed the weapon at someone, you would --

1 intention would be to shoot them.

2 Q. Would you ever point a firearm in jest?

3 A. Never.

4 Q. You have talked about the ready position. Can you show the  
5 jurors what you mean by that?

6 A. Sure. Would you like me to stand up and show them?

7 Q. Sure, if that is easier.

8 A. The firearm in this position. Prior to making entry,  
9 barrel down. So if you come in a room, then you can actually  
10 identify targets.

11 Q. I'm not sure if the jurors down here could see you.

12 If I could just ask you to step to this corner here  
13 and just again with your hands.

14 A. Sure. You would line up with -- in the ready position with  
15 the barrel down and finger outside of the trigger guard. And  
16 once we make an entry into the room, once you identify the  
17 threat, only then would the weapon come up in that position.

18 Q. Okay. And for the record you were standing with your hands  
19 pointing down at the ground and in the low ready position,  
20 correct?

21 A. Yes.

22 Q. All right. Thank you. You can go ahead and sit back  
23 down.

24 Now are there different models of Smith & Wesson  
25 revolvers?

1 A. Yes.

2 Q. Do they all have the same basic operation?

3 A. As a revolver, yes.

4 Q. All right. What are the differences between different  
5 model numbers? Can you give us some examples?

6 A. Yeah, my understanding would be -- we generally use one  
7 model that I was trained on, which was the one which was 10-8,  
8 but they all operate the same way. The differences might be  
9 the length of a barrel. It might be the grips you are using.  
10 What might be caliber of round you're using in that weapon.

11 Q. All right. When you say caliber of round, you're referring  
12 to the bullet?

13 A. Yes.

14 Q. Now you brought with you today a Smith & Wesson firearm, is  
15 that correct?

16 A. I did.

17 Q. And has that been checked by both you and the marshals and  
18 it is safe?

19 A. Yes, it is.

20 Q. It is unloaded?

21 A. Uh-huh.

22 Q. Would being able to handle that firearm help you in  
23 describing the function of a revolver?

24 A. Yes.

25 Q. All right. You can go ahead and take it out of the case,

1 please.

2           Okay. And actually before I have you do that, I'm  
3 going to show you what has been marked for demonstrative  
4 purposes as Government Exhibit 24.

5           Would you look at that exhibit. What is that a  
6 picture of?

7 A. I call it a cylinder.

8 Q. Okay. And that's a part of a revolver, right?

9 A. It is.

10 Q. Will that picture help you as we go through explaining the  
11 function of a firearm and how the cylinder works?

12 A. I believe it will.

13 Q. Okay. First, before we get to the demonstrative, can you  
14 please tell the jury on a revolver where do the bullets go.  
15 How do you load the gun?

16           You can hold it up to show.

17 A. It will be a little easier to show and tell here. But  
18 right now the cylinder is open, you can see. And this weapon  
19 has never been fired. It came right from Quantico as a relic  
20 to the FBI's vault, so it has never been loaded or fired  
21 before.

22           But your primary action would be when you open this  
23 weapon up is to open the cylinder, and then you would start  
24 dropping in the rounds as you use your thumb to kind of rotate  
25 it.



1 Q. Agent, I'm going to ask to -- if you could stand up while  
2 you're showing that. But that means you also have to keep your  
3 voice real loud. But it is a little hard for us to see with  
4 the bar there.

5 A. Sure.

6 Q. Okay. So you have just opened the cylinder.

7 A. Opened the cylinder. Then you would take the rounds.  
8 Usually there is a speed loader or some in your pocket, and you  
9 just start dropping these in one at a time. And your thumb  
10 would kind of rotate the cylinder. You kept dropping one round  
11 after the other until you got all six in the cylinder, and then  
12 you would snap it shut.

13 MS. BIFFL: Okay. At this time I'll ask Agent Kelly  
14 to go ahead and put up on the screen Exhibit 24 if there is no  
15 objection.

16 MR. GAMBONEY: No objection.

17 MS. BIFFL: With the Court's permission.

18 Thank you.

19 BY MS. BIFFL:

20 Q. Okay. Agent Cullen, you have just described -- now does  
21 this picture show the -- a cylinder like you have just  
22 described?

23 A. Yes, it does. A little different than this one I'm looking  
24 at right here, but essentially the same. You have six holes  
25 representing the cylinder in a central plunger.

1 Q. All right. And on this exhibit we have the holes numbered  
2 two, four, six, eight, twelve.

3 Does that make sense to you in terms of as we talk  
4 about how the cylinder is used and how it works?

5 A. Yes. I think it is standard nomenclature for firearms.

6 Q. Now when the cylinder is closed, like you just showed us,  
7 can the person who is holding the gun see any of the bullets?

8 A. When it is closed?

9 Q. Yes. If it is loaded and closed.

10 A. Yes.

11 Q. And how is it -- well, first of all, which -- in which  
12 chambers can the person holding the gun see whether there is a  
13 bullet or not?

14 A. Yeah. It would be visible in chambers two, chamber four,  
15 chamber eight, and chamber ten.

16 Q. Okay. And how much of the bullet would be visible to the  
17 person holding the gun?

18 A. You would have a -- like a crescent of the brass. So kind  
19 of like a crescent shape of each corner, not the full round.

20 Q. Okay. On the outside edge, is that right?

21 A. Yes.

22 Q. Okay. Now how about the person who is on the barrel end of  
23 the gun, can they see any of those chambers when the cylinder  
24 is closed?

25 A. I wouldn't want to be on that side of the gun. But if I

1 was, you would be able to see the rounds, the actual lead, the  
2 bullet part, from you, yes, you would.

3 Q. Okay. And again using the numbers to refer, in which  
4 chambers would that person -- would they be visible?

5 A. They would see chamber two, chamber four, chamber eight,  
6 and chamber ten.

7 Q. Okay. And I'm going to use this little brush that I have.  
8 If you would hold the gun up with the cylinder closed and use  
9 this to just show the jury how if those chambers are open from  
10 the bottom.

11 Excuse me. Sorry.

12 Can you put the brush up into those holes even though  
13 the cylinder is closed?

14 Okay. Can you hold the brush down by the tip just so  
15 we can see.

16 A. That would be in the 10:00 o'clock position.

17 This would be in the 8:00 o'clock position.

18 This would be in the 2:00 o'clock position.

19 Sorry.

20 And this is the 4:00 o'clock position.

21 Q. Okay. So even though the cylinder is closed, those holes  
22 are still open.

23 A. Yes.

24 Q. You can go ahead and sit back down. Thank you.

25 Now, in fact, in your SWAT training, were there

1 exercises that you would do that involved only putting one  
2 bullet into the cylinder?

3 A. Yes.

4 Q. Okay. Can you explain -- how many of those exercises were  
5 there?

6 A. There were two.

7 Q. Can you explain those to us one at a time?

8 A. Right. The principal firearms instructor would have us put  
9 one round, as I call it, into the chamber. And then close the  
10 chamber. First spin it, and then close it. So the agent would  
11 not have any idea if that round was in position two, four, six,  
12 eight, ten or twelve. You just wouldn't know.

13 The reason for that drill was to prevent any  
14 hesitation or anticipation of a round firing. It is supposed  
15 to make you better at focusing on your site picture. So that  
16 was the first drill we would do.

17 Q. Now when you would do that drill, was there a way that you  
18 could kind of cheat?

19 A. Yes.

20 Q. And what was that?

21 A. Well, clearly from the back side you could see when the  
22 round was in the 2:00 o'clock position because you would see  
23 some of the crescent brass in that position. You would know  
24 that that round was going to move from the 2:00 o'clock  
25 position to the 12:00 o'clock position and fire.

1 Q. Okay. Now what was the second exercise that you used to do  
2 with just putting one bullet into the cylinder?

3 A. That was just the test, I think, fire discipline, where you  
4 would put one round into the cylinder, and on a timed position  
5 how fast we could get the cylinder into the -- get the round  
6 into the 2:00 o'clock position. So that as soon as the  
7 instructor blew the whistle, we could raise and fire without  
8 having a misfire.

9 Q. Now you have mentioned twice the 2:00 o'clock position.  
10 What is the significance of the 2:00 o'clock position in a  
11 Smith & Wesson revolver?

12 A. The ones I carried, the -- since the cylinder rotates from  
13 right to left, like counterclockwise, you drop the round in the  
14 2:00 o'clock position. As you started squeezing the trigger,  
15 the cylinder turns to the 12:00 o'clock position, and then it  
16 is fired and it goes out the barrel.

17 Q. So the 2:00 o'clock is sort of a key. That's the firing  
18 position. That's what will be fired next.

19 A. Yes.

20 Q. Now you mentioned that the cylinder rotates  
21 counterclockwise. How -- what on the gun makes the cylinder  
22 rotate?

23 A. The squeezing of the trigger or the pulling back of the  
24 hammer.

25 Q. Okay. Let's talk about those separately.

1           First of all, can you hold the gun up and show the  
2 jury what you mean by the hammer. What part of it are you  
3 talking about?

4 A. This is the hammer piece here. This is the -- what you  
5 pull back.

6 Q. Okay. How does that make the -- doing what to the hammer  
7 makes the cylinder rotate? What do you have to do?

8 A. When you pull the hammer back to -- it is -- first  
9 position, it will start rotating that cylinder  
10 counterclockwise. You got to pull it back, straight back.

11 Q. Now is there -- and then what would you do -- if you pulled  
12 the hammer back, then what do you do to fire the gun?

13 A. Then you just pull the trigger. That's a single action.

14 Q. Okay. And is there some -- a way of firing the gun that's  
15 called double action?

16 A. Yes.

17 Q. Can you tell us what that is?

18 A. That would be the same idea, except you don't have to pull  
19 back the hammer, you just squeeze the trigger through its full  
20 stroke, and that would cause the hammer to go back on its own  
21 and squeeze and fire.

22 Q. And that's double action because then the trigger is doing  
23 both the rotating and the firing, is that right?

24 A. Yes.

25 Q. Is there a way -- well, first, can I ask you to hold the

1 firearm with the -- so you -- or you can pull the microphone  
2 down, and I just want you to pull the hammer back.

3 Okay. Now is there a way to release the hammer  
4 without pulling the trigger?

5 A. Yes.

6 Q. Okay. Can you show us how you do that?

7 A. If I pulled this back to the single action position, now it  
8 is ready to fire.

9 What I would have to do is pull back on the hammer  
10 ever so slightly, and just depress the trigger, and that  
11 releases the hammer back down to a safe position. It is called  
12 decocking.

13 Q. All right. Agent, finally, I'm just going to ask you if  
14 you could please three times just pull the hammer back and then  
15 decock it, please.

16 As close to the microphone as you can.

17 A. That's one.

18 Two.

19 Three.

20 MS. BIFFL: Thank you. I don't have anything further.

21 CROSS EXAMINATION

22 BY MR. BEUKE:

23 Q. Agent, I'm just a little curious, this is -- the photograph  
24 on the screen is a photograph of the cylinder that the person  
25 that the gun is pointed at would see, correct?

1 A. Could be.

2 Q. Well, I mean, the barrel would be coming out from that --  
3 what's depicted on that photograph, correct?

4 A. Yeah. When I testified about this earlier, the extractor  
5 on this one could be seen in that middle section. Not exactly  
6 the same weapon.

7 Q. But I mean what's shown on the photograph is what somebody  
8 would be looking at if you were on the -- the gun was pointed  
9 at you, correct?

10 A. Not correct.

11 Q. Okay. Can you explain to me what's depicted on that  
12 photograph?

13 A. Yeah. You would be missing the barrel and hardware. So  
14 just to visualize, starting at the 12:00 o'clock to 6:00  
15 o'clock position, you're now pointing a barrel assembly, so you  
16 would no longer see the 12:00 and 6:00 o'clock holes.

17 Q. Oh. Yeah, that's what I mean. I mean, you add the barrel  
18 to that --

19 A. Right.

20 Q. -- and the person who is getting the gun pointed at them is  
21 looking at those wide open cylinders, correct?

22 A. He would see four of the cylinders, you're correct.

23 Q. All right. Did Ms. Biffel ever ask you to retrieve a  
24 photograph of what you would see if you were holding the gun  
25 and looking at the back end of the gun and pointing it at



1 somebody's head?

2 A. No.

3 Q. Do you have any photographs like that around?

4 A. I don't.

5 Q. Your testimony is you can see a little portion of the  
6 bullet, correct?

7 A. Based on my experience, yes.

8 Q. And have you ever, like in your -- spun the cylinder,  
9 thrown a round in there, spun it, slammed it shut, and pointed  
10 it at somebody's head, and pulled the trigger?

11 A. I'm sorry, say that again.

12 Q. Have you ever put a round in the chamber or in the  
13 cylinder, spun it and slammed it shut, and then pointed it at  
14 somebody's head and pulled the trigger? Have you ever done  
15 that in your career?

16 A. Never.

17 Q. Okay. You would never do that, right?

18 A. Correct.

19 Q. I mean, if you were leaning over a desk and putting it up  
20 to somebody's head, that wouldn't be too smart, would it?

21 A. No.

22 Q. What's blow back?

23 A. No idea.

24 Q. Well, when the -- if you fired the weapon, that .44  
25 revolver you have in your hand, where does the gun powder go?

1 A. Well, it is not a .44 revolver, it is a Model 19.

2 Q. Whatever it is.

3 A. I'm sorry?

4 Q. Well, did Ms. Biffel ask you to look at a .44 revolver?

5 A. No, she asked me to bring a revolver I brought from the gun  
6 vault. it is a Model 19 Smith & Wesson.

7 Q. Well, did she tell you that the gun of interest in this  
8 case was a .44 revolver?

9 A. I think it was a .44 caliber, correct?

10 Q. Revolver, correct?

11 A. Yes. Yes.

12 Q. Did you bring out a .44 caliber revolver from the gun  
13 vault?

14 A. We don't have a .44 caliber in the gun vault in the FBI.

15 Q. Did you attempt to try to find one so the ladies and  
16 gentlemen of the jury could see what the back end of a .44  
17 caliber revolver looks like?

18 A. The gun vault carries FBI approved weapons. We don't have  
19 a .44 Magnum --

20 Q. That's not my question, sir.

21 Did you attempt to retrieve a .44 caliber revolver  
22 from anywhere for the purposes of your demonstration here to  
23 the ladies and gentlemen?

24 A. No.

25 Q. Yes or no.

1 A. No.

2 Q. You don't know or you can't tell the ladies and gentlemen  
3 of the jury what the back end of a .44 caliber revolver looks  
4 like, can you?

5 A. It is very similar to this prototype here.

6 Q. Well, you don't have one in front of you, do you?

7 A. Correct.

8 Q. You didn't bring one for the ladies and gentlemen, did you?

9 A. Did not.

10 Q. And you don't have the ability to show them whether or not  
11 you could see a portion of that bullet when you're holding it  
12 pointing it at somebody's head, do you?

13 A. I testified the Smith & Wesson is a similar platform.

14 Q. Well, you didn't -- you didn't bring it here, did you? You  
15 brought that gun.

16 A. I did.

17 Q. Oh.

18 MR. BEUKE: Nothing else, Judge.

19 REDIRECT EXAMINATION

20 BY MS. BIFFL:

21 Q. Special agent, that is a Smith & Wesson revolver you have  
22 in front of you, correct?

23 A. Yes, it is.

24 Q. And you have fired -- have you fired more than one model  
25 Smith & Wesson over your career?

1 A. I have.

2 Q. And have the back, from your position holding the firearm,  
3 have the cylinders all had the same view where you could see  
4 the crescent shape at the two, four, eight, and ten?

5 A. Yes.

6 MS. BIFFL: Nothing further. Thank you.

7 MR. BEUKE: Nothing else, Judge.

8 THE COURT: All right. Agent, thank you for your  
9 testimony. You're excused. Happy retirement.

10 THE WITNESS: Thank you, Judge.

11 (Witness excused.)

12 MR. WEISMAN: Judge, we have a quick stipulation we'd  
13 like to read, please.

14 THE COURT: All right.

15 MR. WEISMAN: Judge, we'd ask permission to publish to  
16 the jury.

17 THE COURT: All right.

18 MR. WEISMAN: It is hereby stipulated and agreed by  
19 and between the United States of America by Patrick J.  
20 Fitzgerald, United States Attorney for the Northern District of  
21 Illinois, and defendant Jon Burge, that the government's  
22 evidence would show as follows:

23 If recalled to testify, Sam Perryman, assistant  
24 supervisor of police records for the Chicago Police Department,  
25 would testify that Government Exhibit 5A is a gun registration

1 form for defendant Jon Burge which provides additional details  
2 regarding the make, model, and type of gun that defendant Jon  
3 Burge registered with the City of Chicago on November 8th,  
4 1982.

5 Mr. Perryman would further testify that this record is  
6 a record of the Chicago Police Department and reflects an  
7 activity conducted by the Chicago Police Department that is a  
8 registered -- I'm sorry -- that is the registration of handguns  
9 within the City of Chicago's limits.

10 So stipulated?

11 MR. MARTIN: So stipulated.

12 MR. WEISMAN: Judge, we'd like to publish 5A at this  
13 point.

14 THE COURT: You may.

15 MR. WEISMAN: Judge, we have some additional  
16 stipulations, and then we have our final witness.

17 THE COURT: All right.

18 MR. WEISMAN: The next stipulation relates to Andrew  
19 Wilson's incident. The stipulation reads as follows:

20 It is hereby stipulated and agreed by and between the  
21 United States of America by Patrick J. Fitzgerald, United  
22 States Attorney for the Northern District of Illinois, and  
23 defendant Jon Burge, that the government's evidence would show  
24 as follows:

25 On July 13, 1989, the defendant Jon Burge was asked

1 the following questions and gave the following answers under  
2 oath:

3 "Question: Now on the 14th you had been up without  
4 much sleep at all for five and a half or six days at that  
5 point, hadn't you?

6 "Answer: Yes, sir.

7 "Question: Now at the scene when Andrew Wilson was  
8 arrested, he didn't have a shirt on, did he?

9 "Answer: No, he did not.

10 "Question: On at least two occasions while you were  
11 at the scene, his chest was facing you, isn't that right?

12 "Answer: That's correct.

13 "Question: On those occasions you noticed no injury  
14 to his chest, did you?

15 "Answer: I didn't notice any, no."

16 So stipulated?

17 MR. MARTIN: So stipulated.

18 MR. WEISMAN: The next stipulation also relates to the  
19 Andrew Wilson incident.

20 It is hereby stipulated and agreed by and between the  
21 United States of America by Patrick J. Fitzgerald, United  
22 States Attorney for the Northern District of Illinois, and  
23 defendant Jon Burge that the government's evidence would show  
24 as follows:

25 On June 6th, 1985, defendant Jon Burge was asked the

1 following questions and gave the following answers under oath:

2 "Question: Did you have occasion to be assigned to an  
3 incident relative to a shooting of two police officers, Fahey  
4 and O'Brien?

5 "Answer: Yes, I did.

6 "Question: How did that assignment come to you?

7 "Answer: I was off duty and was paged on my pager.

8 "Question: What did you do after being paged?

9 "Answer: Responded to area headquarters.

10 "Question: And what, if anything, happened at the  
11 area headquarters?

12 "Question:"

13 I'm sorry.

14 "Answer: At that time I took personal charge of the  
15 investigation.

16 "Question: Okay. Were there other people who would  
17 also be considered to be in charge of the investigation aside  
18 from you?

19 "Answer: There were numerous different operational  
20 type officers involved, but the investigation was mine.

21 "Question: So in terms of the brunt of the  
22 investigation that was to follow from that period of time,  
23 would it be fair to say that you were the person that was  
24 directly in charge of that?

25 "Answer: Yes.

1 "Question: Okay. Did you have other people who were  
2 also assigned to this particular project?

3 "Answer: Numerous people.

4 "Question: Okay. Could you tell me to the best of  
5 your recollection who they were?

6 "Answer: Be impossible for me to tell you. We had  
7 over 50 detectives in the areas who were assigned on a  
8 continuing basis. Hundreds of other police officers literally  
9 were assigned who weren't under my command.

10 "Question: And what were you doing in relationship to  
11 the investigation?

12 "Answer: Attempting to coordinate it to the best of  
13 my ability."

14 Then there is another series -- another question and  
15 answer.

16 "Question: Were you personally involved in the arrest  
17 of Andrew Wilson?

18 "Answer: Yes, I was."

19 So stipulated?

20 MR. MARTIN: So stipulated.

21 MR. WEISMAN: The next stipulation also relates to the  
22 Andrew Wilson case.

23 It is hereby stipulated and agreed by and between the  
24 United States of America, by Patrick J. Fitzgerald, United  
25 States Attorney for the Northern District of Illinois, and



1 defendant Jon Burge that the government's evidence would show  
2 as follows:

3 On October 24, 1988, defendant Jon Burge was asked the  
4 following questions and gave the following answers under oath.

5 "Question: Who, if anyone, did you see enter the  
6 interview room that Andrew Wilson was being kept in on the --  
7 during the day of the 14th of February?

8 "Answer: I don't specifically recall seeing anybody  
9 enter the room.

10 "Question: So -- so you to your own knowledge do not  
11 know whether anyone, whether no one or everyone in that  
12 building went into that room, is that right?

13 "Answer: To my knowledge the only people that entered  
14 the room and spoke with Mr. Wilson were Detective O'Hara,  
15 Detective McKenna, State's Attorney Hyman, and the court  
16 reporter, whatever his name was.

17 "Question: And that -- and you base that on the fact  
18 that those were your orders, is that right?

19 "Answer: I base that on the fact that I was in close  
20 proximity to a room for the majority of the time that  
21 Mr. Wilson was in Area 2.

22 "Question: Now from 6:30 to 8:30 did you hear, in the  
23 evening, did you hear any noise coming out of that room at any  
24 time?

25 "Answer: No, sir.

1           "Question: And if there were somebody screaming or in  
2 pain, screaming out in pain, you could have heard from your  
3 office, isn't that right?

4           "Answer: I would assume I could, yes.

5           "Question: And you heard no such noise at any time?

6           "Answer: No, sir."

7           So stipulated?

8           MR. MARTIN: So stipulated.

9           MR. WEISMAN: Last stipulation, your Honor.

10           It is hereby stipulated and agreed by and between the  
11 United States of America by Patrick J. Fitzgerald, United  
12 States Attorney for the Northern District of Illinois, and  
13 defendant Jon Burge that the government's evidence would show  
14 as follows:

15           On September 22nd, 1988, defendant Jon Burge was asked  
16 the following questions and gave the following answers under  
17 oath:

18           "Question: How did you supervise interrogations of  
19 witnesses and suspects?

20           "Answer: I never really paid attention to witnesses.  
21 I would quite often when people would have seen me doing it,  
22 when a suspect was being interrogated, go over and stand  
23 immediately outside the door to the interview room where the  
24 interrogation was going on and listen to what questions were  
25 being raised, what the questions were, and going on inside.

1           "At other points in time, if I had been more than  
2 directly involved in the investigation, I might crack the door  
3 a couple inches and listen to what's going on.

4           "Question: Why did you do that? Why?

5           "Answer: I was interested in what was going on.

6           "Question: Were you looking for anything in  
7 particular?

8           "Answer: Yes. What the content of the conversation  
9 was going on in the interview room.

10          "Question: Were you also sensitive to or the  
11 possibility of coercion or harassment or physical violence  
12 being used in those interrogations?

13          "Answer: I never had that occasion arise. But if I  
14 felt that something like that were going on, yes, I most  
15 certainly would be interested.

16          "Question: Well, was that something that you were,  
17 shall we say, vigilant for?

18          "Answer: I don't like the way you're trying to put  
19 words in my mouth, counselor. I just told you that I never  
20 knew an occasion as you described it to have taken place. Had  
21 something along those lines come to my attention, either  
22 directly involving myself or attempting to overhear  
23 conversations, yes, I would have taken immediate action."

24          So stipulated?

25          MR. MARTIN: So stipulated.

1 MR. WEISMAN: Thank you, your Honor.

2 THE COURT: All right.

3 MS. PERRY: The government calls Michael Conlon.

4 (Witness sworn.)

5 MICHAEL CONLON, GOVERNMENT'S WITNESS, DULY SWORN

6 DIRECT EXAMINATION

7 BY MS. PERRY:

8 Q. Good afternoon. Could you please state and spell your name  
9 for the court reporter?

10 A. Michael Conlon. Last name is spelled C-o-n-l-o-n.

11 Q. What's your educational background, sir?

12 A. I have a bachelor's in English from Loyola University, and  
13 a master's in information and Library Science from Dominican  
14 University.

15 Q. And where do you currently work?

16 A. I am employed by the Chicago Public Library. I work in the  
17 business science technology division at Harold Washington  
18 Library Center.

19 Q. And what in particular do you do at Harold Washington?

20 A. I am a librarian 2. My main duties are as science fair  
21 librarian. I work with groups of students who come in to do  
22 science fair projects.

23 And in addition to that I do reference, programming,  
24 collection, maintenance, and building.

25 Q. Now in connection with those duties, have you come to learn

1 how the library currently maintains and keeps its periodicals?

2 A. Yes, I have.

3 Q. Just generally speaking how does the library first receive  
4 and then maintain the periodical collections?

5 A. When periodicals come in, those volumes come in, they are  
6 checked in either on -- by hand or on an automated system.

7 They are date stamped with -- stamped for the library. And  
8 then they are held until they are bound, usually behind a  
9 counter where the public can request to see them. And then  
10 after about a year so or they are bound and held -- or they are  
11 placed on shelves out in the public areas of the library.

12 Q. And, sir, as best you know, is that how it has always been  
13 done at Harold Washington Library?

14 A. Yes.

15 Q. Were you asked to bring something with you to court?

16 A. Yes, I was.

17 Q. What did you bring?

18 A. I brought the May 1973 edition of Good Housekeeping.

19 Q. And is that bound up with some other versions?

20 A. Yes, it is. It is the first half of 1973, the other issues  
21 from that year, for Good Housekeeping.

22 Q. I'm going to hand you what's been marked as Government  
23 Exhibit 20A.

24 A. Thank you.

25 Q. Do you recognize that, sir?

1 A. Yes, I do.

2 Q. And is that what you brought to court with you?

3 A. Yes, it is.

4 Q. Where was it that you found that?

5 A. This was -- actually this was given to me by my  
6 supervisor. But he found it on the shelves where the rest of  
7 the editions of Good Housekeeping where the periodicals are  
8 held.

9 Q. And to the best of your knowledge has that been in the  
10 custody of the Chicago Public Library since around 1973?

11 A. Yes.

12 Q. I'm also going to hand you Government Exhibit 20B.

13 Do you recognize that, sir?

14 A. Yes, I do.

15 Q. What is that?

16 A. That is the cover -- copy of the cover of the June 1973  
17 issue.

18 Q. And is there more than one page in there with 20B?

19 A. Yes.

20 Q. What are the other pages?

21 A. There is a copy of the index page, the publication  
22 ownership page, and then there is also a copy of an  
23 advertisement.

24 Q. And do those fairly and accurately represent some of the  
25 pages that are in that Good Housekeeping bound version that is

1 20A?

2 A. Yes.

3 MS. PERRY: The government now moves 20A and B into  
4 evidence.

5 MR. GAMBONEY: No objection.

6 THE COURT: All right. 20A and B are received in  
7 evidence.

8 (Government's Exhibit Number 20A and 20B received in  
9 evidence.)

10 MS. PERRY: Request permission to publish the first  
11 page of 20B.

12 THE COURT: All right.

13 BY MS. PERRY:

14 Q. And, sir, looking at that first page, can you tell when  
15 this was received by the library?

16 A. It was received on May 14th, 1973.

17 Q. And you mentioned an advertisement that was in that Good  
18 Housekeeping that was received in May 1973. I'm going to ask  
19 to put that picture up on the screen.

20 Sir, does that particular issue of Good Housekeeping  
21 that was received in May 1973 contain an advertisement for  
22 plastic bags?

23 A. Yes, it does.

24 Q. Of all shapes and sizes?

25 A. Yes.

1 Q. All right. Thank you very much, sir.

2 MS. PERRY: No further questions.

3 CROSS EXAMINATION

4 BY MR. GAMBONEY:

5 Q. Mr. Conlon, good afternoon.

6 A. Good afternoon, sir.

7 Q. Is it fair to say that up until the time you were contacted  
8 by the FBI or the U.S. Attorney's Office, you had never seen  
9 this particular issue of Good Housekeeping, correct?

10 A. That's correct, yes.

11 Q. And when you -- who did ask you to look this up?

12 A. Well, as I said previously, it was given to me by my  
13 supervisor.

14 Q. Okay. And as a result of any involvement you had in  
15 finding this or talking to your supervisor, you certainly don't  
16 have any knowledge of when plastic liner bags were introduced  
17 into distribution in this area, do you?

18 A. No, I do not.

19 Q. And you were never asked by anybody to look and find any  
20 documentation of when plastic liner bags were introduced into  
21 the market.

22 A. No, I was not.

23 Q. And this -- in fact, I believe the issue of Good  
24 Housekeeping is from June of 1973.

25 A. That's correct.



1 Q. Are you aware that -- has anyone asked you to go back  
2 farther or asked your supervisor to go back farther, '72, '71,  
3 '70?

4 A. We were not asked to search for the advertisements. We  
5 were asked for a particular copy, that particular issue of Good  
6 Housekeeping. So the library didn't do any searching for the  
7 ads.

8 Q. Okay. You weren't asked then to find any ads in '72, '71,  
9 '70 --

10 A. We were not.

11 Q. -- fair to say?

12 And as a consequence you don't know when plastic bags  
13 were introduced into the market, correct?

14 A. No, I do not.

15 Q. You don't know how many manufacturers of those plastic bags  
16 there were, correct?

17 A. No, I do not.

18 Q. Don't know if they were generally available in Illinois in  
19 1973, correct?

20 A. I do not.

21 MR. GAMBONEY: Judge, no further questions.

22 THE COURT: All right.

23 MS. PERRY: No further questions, Judge.

24 THE COURT: All right. Mr. Conlon, thank you for your  
25 testimony.

1 THE WITNESS: You're welcome.

2 (Witness excused.)

3 MR. WEISMAN: Judge, could we have a quick second to  
4 double check some stuff?

5 THE COURT: Yes.

6 (Brief interruption.)

7 MS. BIFFL: Your Honor, at this time the government  
8 rests.

9 THE COURT: All right. I am going to excuse you for  
10 the rest of the day, ladies and gentlemen. We'll start the  
11 defense case tomorrow morning at 9:15. Thank you for your  
12 attention.

13 MR. WEISMAN: Oh, Judge --

14 THE COURT: Wait.

15 MR. WEISMAN: -- could we have a quick sidebar?

16 THE COURT: Oh, I think I know what you are talking  
17 about.

18 One more thing. Did anyone -- just don't tell me  
19 anything except raise your hand if you saw any headlines in the  
20 newspaper this morning about this case.

21 All right. Anyone else?

22 Any other stories in the last few days that you have  
23 been exposed to?

24 Okay. Can we just keep Mr. S.?

25 All right. The rest of you are excused, and we'll ask

1 you to stay again, Mr. S.

2 (Proceedings had in open court outside of the presence and  
3 hearing of the jury:)

4 THE COURT: I hope you don't feel you're being picked  
5 on, sir.

6 A JUROR: No.

7 THE COURT: All right. Would you tell us what you  
8 saw?

9 A JUROR: Yes. I mean, again, I am just trying to be  
10 as honest as I possibly could. I was reading the sports  
11 section, started to turn it over, I saw the first name and part  
12 of the second line, and that was it.

13 THE COURT: All right. Can you recall what the tenor  
14 of the headline --

15 A JUROR: I believe this gentleman -- defendant's  
16 name, and I believe the second word might have been cop, but I  
17 wasn't a hundred percent sure.

18 THE COURT: Cop?

19 A JUROR: I thought so. I wasn't sure.

20 THE COURT: Okay.

21 And I gather from what you say that you didn't read  
22 the article.

23 A JUROR: No, not at all.

24 THE COURT: All right. And seeing that headline, will  
25 that influence you in any way?

1           A JUROR: No.

2           THE COURT: All right. Does either of counsel have  
3 any questions?

4           MR. WEISMAN: Nothing on behalf of the government,  
5 your Honor.

6           MR. BEUKE: Thank you, sir, nothing.

7           THE COURT: All right. You're excused. We'll see you  
8 tomorrow then. Thanks.

9           (Juror excused.)

10          THE COURT: All right. I'd like to do jury  
11 instructions some time this afternoon.

12          MR. WEISMAN: The government would be -- we're  
13 available whenever you would like us. If we had our druthers,  
14 maybe we could have get a half hour, 45 minutes.

15          THE COURT: Sure.

16          MR. MARTIN: Judge, and of course I'm available  
17 whenever the Court wants. I was going to work on getting  
18 witnesses together for tomorrow, but if you want me to come  
19 back here, I will.

20          I do have a motion for judgment of acquittal, which is  
21 in writing. We'll file it online this afternoon. I'll tender  
22 a courtesy copy to the Court and a copy to the government.

23          THE COURT: All right. Thank you.

24          MR. MARTIN: It is a motion pursuant to Rule 29(a) of  
25 the Federal Rules of Criminal Procedure.

1 THE COURT: All right. Well, I don't want to  
2 interfere with your preparation, Mr. Martin, if you -- I  
3 mean --

4 MR. MARTIN: Judge, and another reason why I bring it  
5 up, is I think some instructions will be affected by the  
6 defense case. So we're going to have to return, for instance,  
7 if the defendant testifies, if there is impeachment of defense  
8 witnesses, things likes that, theory of defense.

9 THE COURT: Have you looked at the instructions in any  
10 detail?

11 MR. MARTIN: Yes, I have, your Honor. And we  
12 submitted substantial instructions ourselves. The -- we're far  
13 apart on the perjury elements instruction because there is no  
14 pattern. So there is competing versions of that. That's a  
15 significant issue.

16 THE COURT: Okay.

17 MR. MARTIN: I would say as an overall view the  
18 Seventh Circuit has convened a committee to rewrite the  
19 instructions, and they are in the process of rewriting those  
20 instructions now.

21 All of the boilerplate instructions, if you will, have  
22 been rewritten by Judge Kennelly and Judge Kennelly's group. I  
23 have submitted those instructions as part of our submission.  
24 Most of it is grammatical. There is a few substantive issues.  
25 I asked Judge Kennelly if I could do that. He said, yes. I'm

1 on the committee, so I had access to the instructions, so --

2 THE COURT: Well, if we can improve.

3 MR. MARTIN: Yeah, those instructions have been  
4 submitted, so --

5 THE COURT: All right. Well, I guess for me if these  
6 are -- if there is something that there is a significant  
7 dispute about, such as the elements of perjury, I would like to  
8 know about it so we can work on it in advance.

9 MR. WEISMAN: I do think there are significant  
10 differences. I mean, the pattern stuff, I'm sure we can work  
11 through. We were aware of the proposed ones. But since they  
12 are not approved, we didn't submit them.

13 THE COURT: Okay.

14 MR. WEISMAN: We're not on the committee.

15 MR. MARTIN: Well, there are assistants on the  
16 committee, so --

17 MR. WEISMAN: So, anyway, but with that I'm not -- I  
18 don't think we're as worried about it as the more substantive  
19 issues.

20 THE COURT: All right. And when are we going to have  
21 closings in this case, do we know?

22 MR. MARTIN: Your Honor, the way I see it, I think we  
23 have defense evidence Wednesday, Thursday, and Monday morning.  
24 I don't know if the government is going to have a rebuttal case  
25 and how long that would be.

1 MR. WEISMAN: Obviously I can't --

2 THE COURT: So Monday afternoon?

3 MR. WEISMAN: -- predict that.

4 So if we have a rebuttal case, it would be short.

5 THE COURT: So Monday afternoon?

6 MR. WEISMAN: I'm game.

7 MR. MARTIN: That would be a good time.

8 THE COURT: Okay. Well, then I suggest that -- let's  
9 just take a little time today. We don't have to go through it  
10 all the way -- all the way, but I'd like to find out where the  
11 problems are. So could you come back at 3:00 o'clock?

12 MR. WEISMAN: Sure.

13 MR. MARTIN: Fine.

14 THE COURT: I'll try to get you in and out in a half  
15 an hour.

16 MR. MARTIN: Okay.

17 THE COURT: All right.

18 (Brief recess.)

19 (Jury instruction conference off the record.)

20 (Adjournment at 3:00 P.M. to reconvene at 9:15 A.M., June  
21 16, 2010.)

22

23

24

25